



Special Area Planning Committee (Central and East)

Date Thursday 30 March 2023

Time 1.00 pm

Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest, if any
4. Applications to be determined by the Area Planning Committee (Central and East)
 - a) DM/22/03247/FPA - Rushford Court, North Road, Durham, DH1 4RY (Pages 3 - 42)

Erection of new ancillary student accommodation facilities building built within grass embankment; minor external changes to existing Harding building including re-instatement of historical entrance location and implementation of associated landscaping scheme.
 - b) DM/22/00102/OUT - Land to the east of Eden House, High Hesleden, TS27 4QF (Pages 43 - 72)

Outline planning consent (with all matters reserved save for access) for the erection of up to 18no. dwellings (amended description).
 - c) DM/22/03823/FPA - 3 St Monica Grove, Crossgate Moor, Durham, DH1 4AS (Pages 73 - 92)

Change use of dwellinghouse (C3) to 7 bed large HMO (Sui Generis) including changing the use of the garage into a habitable room.

- d) DM/22/03703/FPA - 17A Seaside Lane, Easington Colliery, Peterlee, SR8 3PF (Pages 93 - 106)
Change of use to hot food takeaway (across all three levels) and erection of high velocity duct/flue/cowl to rear, extracting above eaves but below ridge level.
- e) DM/22/02292/VOC - 5 North Road, Durham, DH1 4SH (Pages 107 - 116)
Variation of condition 2 of planning permission 4/99/00534/FPA to allow a change in opening hours.
5. Such other business as, in the opinion of the Chair of the meeting, is of sufficient urgency to warrant consideration

Helen Lynch
Head of Legal and Democratic Services

County Hall
Durham
22 March 2023

To: **The Members of the Area Planning Committee (Central and East)**

Councillor D Freeman (Chair)
Councillor L A Holmes (Vice-Chair)

Councillors A Bell, L Brown, I Cochrane, J Cosslett, S Deinali, J Elmer, C Kay, D McKenna, R Manchester, C Marshall, J Quinn, K Robson, K Shaw and A Surtees

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/22/03247/FPA
FULL APPLICATION DESCRIPTION:	Erection of new ancillary student accommodation facilities building built within grass embankment; minor external changes to existing Harding building including re-instatement of historical entrance location and implementation of associated landscaping scheme.
NAME OF APPLICANT:	Unite Group Plc
ADDRESS:	Rushford Court, North Road, Durham, DH1 4RY
ELECTORAL DIVISION:	Neville's Cross
CASE OFFICER:	Louisa Ollivere Senior Planning Officer Telephone: 03000 264878 louisa.ollivere@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. Rushford Court provides student accommodation within the grounds of the former County Hospital site both within an unlisted Victorian building dating from 1850 and within two new purpose built accommodation wings and a small student hub building. The buildings have been in this new use since September 2018. The older Victorian building stands on land within the north western corner of the Durham (City Centre) Conservation Area. In its original form the hospital was typical of much mid - 19th century institutional and country house architecture, reflecting the fashion of the time for "Jacobethan" building forms. The original building comprised an H plan, with prominent ornate gables, tall chimneys and a central bell tower, its setting enhanced by an open field position with terrace to front.
2. Planning permission was granted upon appeal in 2016 to demolish the late 19th and 20th Century main hospital building extensions and the Rushford Wing to reveal the historic building's original 1850 Jacobethan facade. A new extension to the existing internal courtyard to the north side of the main hospital building was approved to provide purpose built student accommodation which, combined with the conversion of the main building, was to create 82 student studios. The construction of a second new building accommodating purpose built student accommodation providing 281 bed spaces, with independent student hub was also approved. At the same time there was extensive re-landscaping of the site and arboricultural management to retain mature boundary trees, and the creation of a landscaped terraced forecourt between the former hospital building's southern frontage and the rear of the new block, with an improved vehicular access at the south east corner of the site at the junction between North Road and Sutton Street.

3. One of the student accommodation blocks (Block A) runs along the south east edge of the site fronting Sutton Street and is five stories in height, the uppermost being inset from the lower elevations. Blocks B and C run along the south west edge of the site facing Waddington Street, splayed at the upper north west extremity towards the historic hospital building, and stepping up the slope. Block B is also of five storeys with the uppermost inset, while block C is of six storeys with the uppermost inset, and seven storeys with the uppermost inset.
4. The architecture of the newer accommodation blocks incorporates flat roofs throughout. Modulation would be complimented by a mix of materials, with shadow lines adding to the depth of the façades. A mix of brickwork, cladding and glazing has been used in the design.
5. This distinctive and highly visible corner of the Conservation Area, particularly for those passing by train over the viaduct immediately to the south, is characterised by rows of two and three storey terraced housing against a backdrop of mature trees, with regular changes of roofline following the topography by stepping down slopes.
6. To the north of the application site terraced housing rises steeply up Western Hill. To the north east larger detached houses climb North Road with the elevated Victorian Wharton Park opposite. To the north west lies the open wooded area of Flass Vale, which includes a Local Wildlife Site, with the Kingslodge Hotel and modern housing development, standing at the Vale's entrance. To the south east runs Sutton Street with the 1855 Grade II* Listed railway viaduct beyond, beneath which stand terraced properties. To the south west runs Waddington Street, containing the United Reform Church and further terraced housing. The site is within the Coalfield Development Low Risk Area and a Mineral Safeguarding Area. The site is not within any Landscape designation.

The Proposal

7. Permission is sought for the erection of a new 2 storey ancillary student accommodation facilities building built within the grass embankment between the southernmost accommodation building and the former Hospital building. Minor external changes are also proposed to the existing Harding building, including the reinstatement of the historical entrance location and the implementation of an associated landscaping scheme. The new building would incorporate a bar, communal space, staff and management offices with further communal space proposed on the terrace and roof.
8. The building would be set over two floors with both floors set into the bankside. Level 00 is the roofscape which is designed to be fully accessible and allows access to the proposed lift and external stairway. In addition to access routes the roofscape would have landscaped surfacing and planting. Level B1 beneath the roofscape would accommodate a main entrance hall and communal facilities and security offices and there would be an external terrace on this level to link up with existing and proposed steps. Level B2 the lower ground floor would have another entrance hall, more communal facilities and a café/bar. In front of this would be areas of hard and soft landscaping.
9. The new Hub building would have a rough cut stone finish with cast stone coping above. All window units would be bronze brown aluminium. Stair guards and balustrades would be flat plate metal in a dark grey colour. The proposed lift shaft on the roof terrace would be translucent with bronze brown aluminium capping.

10. The changes to the Harding building would involve conversion of a gym to the main entrance hall and to facilitate this the external steps are proposed to be extended and a window will be replaced with a glazed aluminium framed door.
11. The changes to the current hub /facilities management building involve converting this a to a fitness suite and altering the façade to provide further openings.
12. In respect of sustainability, air source heat pumps are proposed to be incorporated, and Photo voltaics are proposed on the roof of the existing student residential block on the west side of the new building. These features alongside other measures to use less energy would ensure an improvement of 2.13% beyond the requirements of the Building Regulations.
13. The scheme incorporates areas of soft landscaping to the roofscape of the new hub, enhancements to the existing grass slope with new trees, shrubs and flora, new shade tolerant planting and hedge to front of the facade of student accommodation, ornamental planting along the Terrace balustrade, structural panting to the corner of the student accommodation, climbing plants to the central staircase and native hedgerow to the boundary of the existing woodland. In terms of hard landscaping this includes a new retaining wall on the eastern boundary adjacent the entrance road, a sheltered seating area on the mid terrace, a decking area on the roofscape and new benches along the existing footpaths adjacent the roofscape.
14. The proposal does not impact on current parking spaces or the access and as the proposal does not increase bedroom numbers it would not involve an increased number of students or staff and therefore no significant additional traffic is envisaged.
15. This application is reported to Committee as this is major development site being more than 1 hectare in area.

PLANNING HISTORY

16. In 2015 Planning permissions was refused for the conversion of former hospital, extension to accommodate 82 student studio; demolition of associated buildings; erection of two student accommodation blocks containing 281 student flats with associated communal living spaces; new student hub building; and landscaping, cycle storage, parking and access alterations (DM/14/03694) however this was later allowed at appeal.
17. In 2018 planning permission was granted for the variation of condition 2 pursuant to DM/14/03694/FPA to permit removal of 5 no studio units within retained former hospital building and replacement with student amenity facilities, use of previously identified "student hub" as management offices, removal of chimney stack, amendment to roofing materials and fenestration alterations to retained building, provision of additional plant store and relocation of bin stores (amended description) (DM/17/00974/VOC).
18. Various conditions were discharged in relation to DM/14/03694 in 2016 and 2018 (DRC/16/00205, DRC/16/00417, DRC/18/00052).

PLANNING POLICY

NATIONAL POLICY

19. A revised National Planning Policy Framework (NPPF) was published in July 2021 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
20. In accordance with Paragraph 219 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
21. *NPPF Part 2 - Achieving sustainable development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
22. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
23. *NPPF Part 6 - Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future
24. *NPPF Part 8 - Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
25. *NPPF Part 9 - Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.

26. *NPPF Part 12 - Achieving well-designed places.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
27. *NPPF Part 14 - Meeting the challenge of climate change, flooding and coastal change.* The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
28. *NPPF Part 15 - Conserving and enhancing the natural environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate. Amongst other aims decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site to impacts that could arise from the development. Noise should be mitigated and reduced to a minimum potential adverse impact to avoid noise giving rise to significant adverse impacts on health and quality of life. Decisions should ensure that new development can be integrated effectively with existing businesses. Existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business could have a significant adverse effect on new development the applicant should be required to provide suitable mitigation.
29. *NPPF Part 16 - Conserving and enhancing the historic environment.* Heritage assets range from site and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
30. *NPPF Part 17 - Facilitating the sustainable use of minerals.* It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

NATIONAL PLANNING PRACTICE GUIDANCE:

31. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; climate change; design: process and tools; healthy and safe communities, historic environment; land affected by contamination; land stability; natural environment; neighbourhood planning; noise; and use of planning conditions.

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

The County Durham Plan (2020) (CDP)

32. *Policy 6 – Development on Unallocated Sites* – supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement’s valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
33. *Policy 16 – Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation* – supports new University facilities where proposals respect character of the area, have no unacceptable impacts on the WHS or its setting and if possible enhance both, sustain the significance of designated heritage assets , have no harm on ecology or biodiversity, are designed with staff and student movement in mind, provide parking spaces and ev charging points and create well designed spaces, exploit sustainable energy opportunities. For sport and recreation facilities a community access agreement will be required. In respect of student accommodation the policy seeks to provides a means to consider student accommodation and proposals for houses in multiple occupation in ensure they create inclusive places in line with the objective of creating mixed and balanced communities.
34. *Policy 21 – Delivering Sustainable Transport* – Requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to the Parking and Accessibility Supplementary Planning Document and Strategic Cycling and Walking Delivery Plan.
35. *Policy 22 – Durham City Sustainable Transport* – seeks to reduce the dominance of car traffic, address air quality and improve the historic environment within the Durham City area
36. *Policy 29 – Sustainable Design* – requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period. Provision for alterations and extensions to residential property to be sympathetic to existing building and character and appearance of area Provision for signage, adverts, street furniture and public art to be appropriate and sympathetic to users and local setting and not detrimental to visual amenity or public highway safety Provision for major developments to appropriately consider the public

realm in terms of roads, paths, open spaces, landscaping, access and connectivity, natural surveillance, suitable private and communal amenity space that is well defined, defensible and designed to the needs of its users. Provision for new major residential development to be assessed against Building for Life Supplementary Planning Document, to achieve reductions in CO2 emissions, to be built to at least 30 dwellings per hectare subject to exceptions. All new development to achieve BREEAM minimum rating of 'very good'.

37. *Policy 31 – Amenity and Pollution* – sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
38. *Policy 32 – Despoiled, Degraded, Derelict, Contaminated and Unstable Land* – requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
39. *Policy 35 – Water Management* – requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
40. *Policy 36 – Water Infrastructure* – advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and waste water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
41. *Policy 41 – Biodiversity and Geodiversity* – restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The retention and enhancement of existing biodiversity assets and features is required as are biodiversity net gains. Proposals must protect geological features, have regard to Geodiversity Action Plans and the Durham Geodiversity Audit and where appropriate promote public access, appreciation and interpretation of geodiversity. Development proposals where the primary objective is to conserve or enhance biodiversity or geodiversity will be permitted if they comply with other local plan policy. Development proposals which are likely to result in the loss of deterioration of irreplaceable habitats will not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy exists.
42. *Policy 44 – Historic Environment* – seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to

enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.

43. *Policy 45 – Durham Castle and Cathedral World Heritage Site* – seeks to ensure that developments within the world heritage site sustain and enhance the significance of the designated asset, are based on an understanding of, and will protect and enhance the outstanding universal values (OUVs) of the site in relation to the immediate and wider setting and important views into, and out of the site. Any harm to the OUVs will not be permitted other than in wholly exceptional circumstances.
44. *Policy 56 – Safeguarding Mineral Resources* – Sets out that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within a Mineral Safeguarding Area unless certain exception criteria apply.

NEIGHBOURHOOD PLAN:

The Durham City Neighbourhood Plan (2021) (DCNP)

45. *Policy S1: Sustainable Development Requirements of all Development and Redevelopment Sites Including all New Building, Renovations and Extensions* – sets out the economic, social and environmental criteria that development proposals will be required to meet.
46. *Policy H1: Protection and Enhancement of the World Heritage Site* – requires development within the Durham Cathedral and Castle World Heritage Site to sustain, conserve and enhance its outstanding universal value and support the current adopted management plan. Development within the WHS must take account of the historical and present uses of the site, propose high quality design, use appropriate materials and seek balance in respect of scale, density, massing, form, layout, landscaping and open spaces. Development proposals within Our Neighbourhood will need to sustain, conserve, and enhance the setting of the WHS where appropriate, by carrying out an assessment on how the development will affect the setting, including views to and from the WHS, protect important views and take opportunities to open up lost views and create new views and vistas.
47. *Policy H2: The Conservation Areas* – expects development within the City Centre Conservation Area to sustain and enhance its special interest and significance identified within the conservation area character appraisal taking account of sustaining and enhancing the historic and architectural qualities of buildings, continuous street frontages, patterns, boundary treatments, floorscape and roofscapes, avoiding loss or harm of an element that makes a positive contribution to its individual significance and surrounding area, using appropriate scale, density, massing, form, layout and materials, using high quality design sympathetic to the character and context, its significance and distinctiveness
48. *Policy G1: Protecting and Enhancing Green and Blue Infrastructure* – seeks to support developments that retain existing green or blue assets with significant recreational, heritage, cultural, ecological, landscape or townscape value and developments that provide additional green or blue assets, particularly if there is an identified deficiency. Any new or replacement assets must be appropriate to the context and setting. The policy requires developments to protect and enhance public rights of way and footpaths and green corridors. It offers support to proposals that provide net gains for biodiversity. The policy requires features of geological value to

be protected. The policy seeks to protect and enhance the banks of the River Wear by supporting proposals with desirable access that do not have significant impacts on current assets. The policy also seeks to protect dark corridors by ensuring developments minimise lighting in such areas.

49. *Policy T1: Sustainable Transport Accessibility and Design* – seeks to ensure that development proposals will be required to demonstrate best practice in respect of sustainable transport accessibility and design

The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can be accessed at: <http://www.durham.gov.uk/article/3266/Development-Plan-for-County-Durham> (Adopted County Durham Plan and The Durham City Neighbourhood Plan)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

50. *Highway Authority* – No objections.
51. *Northumbrian Water* – Request a condition that the development accords with the submitted drainage scheme.
52. *Drainage & Coastal Protection (Lead Local Flood Authority)* – Are satisfied with the surface water management plan and hydraulic calculations.

NON -STATUTORY RESPONSES:

53. *Durham University* – Support the application as it will enable the temporary relocation of St Hild and St Bede College and allow its refurbishment, and in the longer term as it will provide a new college supporting their commitment to the Council and local community to bring a greater number of students into college owned or managed accommodation. They detail that the development will avoid the need to redevelop another area in the city and the high spec accommodation and historic setting would set this college apart from others but allow it to develop further positive links with the community. The close proximity of the Hub building to accommodation is seen as a positive in terms of mixing and achieving optimum use of the facilities. The open door policy with local residents at St Hild and Bede will be reflected in this case as will community use of facilities. Lastly the University point out that the proposal would place the stewardship of the Harding building under a team of experts who already manage the culture and heritage of numerous historic and significant buildings in the city.
54. *County Durham and Darlington Fire and Rescue Services* – No objections.
55. *Durham Constabulary* – No objection but recommend the principles of Secured by Design are adopted on the site.

INTERNAL CONSULTEE RESPONSES:

56. *Spatial Planning* – Advise that the site is unallocated and Policy 6 is therefore relevant. The Officer notes the proposal would intensify the existing use on previously developed land and the proposal has been designed to minimise the visual impact of the new building as far as possible, as well as recreating existing outdoor amenity space (which would otherwise be lost) through terraced landscaping. That being said it is pointed out that there are a number of sensitive

receptors in the vicinity of the proposed development. These are detailed as the existing student accommodation located on the south-east edge of the site, existing residential and student properties in the surrounding streets and the designated and non-designated heritage assets in the vicinity of the proposed new building.

57. The Officer advises that the proposal would need to accord with Policy 6 criteria and that comments from specialist colleagues, including Conservation, Environmental Health and Landscape Teams, will be key in determining whether the intensification of use in this location is acceptable.
58. It is also advised that Policy 16 (Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation) would be relevant however which parts are relevant are subject to there being confidence that the University intend to affiliate this site within their estate.
59. If the University intends to affiliate the college then the Officer advises that Parts 1 and 2 of Policy 16 should be applied. The Officer advises that Part 1 of the policy relates specifically to Durham University Development, it acknowledges that the University will continue to evolve and supports new university facilities, including academic, residential, sport and cultural floor space and the refurbishment of existing buildings where it meets criteria a-h. This includes respecting the character and setting of the area, having regard to the needs and requirements of the local community, impact on the Durham Castle and Cathedral World Heritage Site, sustaining and enhancing the significance of designated heritage assets, impact on the conservation area and creating well-designed spaces and exploiting sustainable energy opportunities where possible.
60. The Officer advises that Part 2 of Policy 16 relates specifically to all proposals for new or extensions to purpose-built student accommodation (PBSA). As this site is already PBSA and the proposal is for additional amenity space, rather than additional bedspaces, the Officer considers that not all of the criteria will be relevant but that all relevant criteria must be met particularly in relation to criteria e to g.
61. It is noted that the proposal will include a bar and as such it is advised that amendments to the existing PBSA management plan may be required to ensure that the potential for noise and amenity impacts are appropriately managed and impacts minimised.
62. Given the proximity of the proposed building to the existing student block at the south-east of the site, it is advised that consideration be given to the amenity and privacy of the occupants of this accommodation.
63. Policy 44 (Historic Assets), Policy 45 (Durham Castle and Cathedral World Heritage Site) and DCNP Policy H1 (Protection and Enhancement of the World Heritage Site) DCNP Policy H2 (The Conservation Areas) are also considered relevant.
64. Whilst it is noted that the new building has been designed to try and maintain important views in and out of the site, it is advised that account be taken of the cumulative impact of development and that comments from specialist colleagues should determine whether the information submitted, and the design put forward meets the heritage criteria of the policies within the CDP and DCNP and other relevant policies of both plans.
65. Whilst it is acknowledged that the proposal does not appear to be increasing the number of students or vehicles within the site, until the final uses of the proposed building have been clarified the Officer advises that it is unclear whether there would

be any additional traffic movements generated from the development. It is pointed out that although the site itself is not within the Air Quality Management Area (AQMA), it is adjacent to the AQMA and as such any impact on the area should be considered by the case officer. Whilst consideration of walking and cycling infrastructure is likely to have formed part of the original application for this site, the Officer advises that it should be confirmed that there will be no loss of infrastructure and/or enhancement required as a result of the development.

66. *Design and Conservation* – Advise that the application site is highly sensitive in heritage terms. It is pointed out that The former County Hospital building today called “Rushford Court” is identified as a non-designated heritage asset (NDHA). Furthermore, the Officer notes it is located within Durham (City Centre) Conservation Area (CA) and The CA encompasses the medieval core of the city that includes the Cathedral and Castle World Heritage Site (WHS). It is advised that the site is within the setting of the WHS and numerous other designated heritage assets in the form of listed buildings.
67. It is advised that the site occupies a prominent position on a highly visible corner at the north end of the commercial part of North Road. To the north of the site it is noted are late C19 and some early C20 terraced houses rising steeply up Western Hill. To the northeast the Officer points out the elevated Victorian public part of Wharton Park on the opposite side of North Road. To the northwest it is noted there is the local nature reserve of Flass Vale, with Kingsgate Lodge and new housing on the site of the former bus depot at the Vale’s entrance. To the south the Officer notes Sutton Street with the 1855 grade II* listed Viaduct beyond and Victorian housing beneath and to the southwest is Waddington Street containing the United Reform Church and further Victorian terraced housing.
68. The Officer advises that site was recently developed (2018) following the granting of planning permission in 2014 at appeal for converting the former hospital to accommodate 82no student studios, demolition of associated buildings, and the erection of new student accommodation blocks etc. Prior to this the Officer advises that the site was disused and derelict. It is noted that this development regenerated the site by restoring and conserving the original hospital building whilst also proposing new contemporary accommodation blocks designed to be intentionally different to the original hospital building.
69. In respect of significance it is advised that the original hospital building is a high value NDHA. The Officer notes that its origins can be traced back to the C18 when an infirmary was opened in Allergate. The Officer details that by the middle of the C19 the infirmary was found to be too small with a larger building constructed, funded by public contributions, on the current site in North Road to take advantage of the views towards the southeast. The building was completed by 1850 and the Officer advises it is historically significant in representing one of the first developments along this key route out of the town as well as illustrating a key phase of development of health care provisions within the city.
70. The site is also considered to have aesthetic qualities resulting from the architectural style of the original hospital building and the mature landscaping of its grounds. The historic stone walls around the perimeter of the site and the stone retaining and terraced walls within the site are also considered of significance. It is considered that the siting and orientation of the original hospital building was seemingly designed to create a domestic villa character on the edge of the expanding town both for the well being of patients and to increase the profile of the hospital which was at the time reliant on fundraising.

71. It is noted that the adopted conservation area character appraisal divides the CA into sub areas, and the site is within the Crossgate Sub-Area. The significance described as being the drama of the Viaduct, the railway line and the two and three storied historic terraced built form which due to the topography of the area produces a stepped roofline. In contrast it is considered the County Hospital site is of a distinct different character, set back from the roadside and elevated fronting onto North Road and Sutton Street where its Elizabethan frontage is identified in the appraisal as a key historic landmark and focal point of high architectural value. Furthermore, it is pointed out that the appraisal recognises the aesthetic qualities and importance of the landscaped grounds which link to the adjacent green spaces at Flass Vale and Wharton Park. It is considered that the buildings significance has been enhanced by the previous permission by removing the later incongruous additions that have better revealed the significance of the original hospital building in its plot and secured its full restoration. It is advised that the combination of the above contribute very positively to the character and appearance of the surrounding CA.
72. The Officer notes that the site falls within the 200-500m of many listed buildings, including The Battery at Wharton Park (grade II), Durham Railway Station North and South Platforms (separately listed at grade II), the Premises Occupied By Messrs J and M Luke Sutton Street (grade II), Redhills Miners Hall (grade II), and North Road Methodist Church (grade II). That said, the Officer considers that the only listed heritage asset requiring detailed assessment in the context of the development proposal is the grade II* listed Durham Viaduct c. 146m to the south.
73. In terms of the impact on Heritage Significance & Design Related Matters, it is considered that there would be no impact on the significance (physical fabric) of the NDHA, but there would be an impact upon its setting that contributes to its significance. It is noted that the heritage statement summarises that the effect of the development proposal on setting would result in some harm and that this would be caused by the building's intrusion and formalising of the terraced area that is presently landscaped and the associated raised elements above. However, the Officer considers that the heritage statement fails to recognise other harmful factors.
74. It is considered that the architectural response to the sites constrains as part of the original permission left this land intentionally undeveloped following the clearing of intrusive built interventions. It is advised that this was to enhance the spaces around the original hospital building, allowing it to breath, and to create a courtyard landscape foreground setting. It is considered that the proposal would compromise the original architectural design intent in this regard and would draw the contemporary and historic built form closer together.
75. Furthermore, part of the aesthetic qualities of the site relates to the retained mature and informal landscaping of the main buildings grounds that link to adjacent green spaces. It is considered that the proposal would result in the loss on one such area to the detriment of the sites aesthetic quality.
76. It is noted that the heritage statement identifies that the level of harm arising overall to significance of the NDHA by the development proposal within its setting will be "less than substantial" and the Officer considers that an accurate summary.
77. It is noted that the heritage statement identifies that the impact on the Conservation Area (Defined in the NPPF and HE guidance as a designated Heritage Asset) is likely to sustain significance because there is no perceptible change that would be great enough to affect its character and appearance. However, it is considered that this purely places the emphasis on views. By virtue of harm being identified to the immediate foreground setting of a high value NDHA (A component part of the

Conservation Area) that contributes very positively to the significance of the CA, by default that significance would be neither sustained or enhanced if it is subjected to harm.

78. It is noted that Policy 44 of the CDP states that “Development is expected to sustain the significance of designated and non-designated heritage assets, including any contribution made by their setting”. It is considered that the development proposal would not result in harm to the setting of the WHS. Whilst there is intervisibility between the site and the WHS there would be no harm on account of the proposals position set back into the site behind the more substantial contemporary accommodation block in the south, the intervening topography, boundary walls, tree coverage, and built development outside the site. The Officer considers that it would not be anticipated to directly affect the significant views towards the WHS attainable from the surrounding public realm. Due to the same intervening factors, it is considered that it would not impact upon any of the WHS Outstanding Universal Values.
79. It is considered that the proposal would relate to new built development within the visual envelope of the grade II* listed Durham Viaduct. It is advised that the Viaduct is a landmark designated heritage asset within the city that affords significant views across the townscape towards the WHS from the east coast mainline. Due to the development proposal being contained within the former county hospital site situated behind the south accommodation block of greater scale, and due to being two storied sunk into the embankment, the Officer considers it is unlikely to form such a prominent or noticeable feature within local, medium and long distance views towards the Viaduct.
80. In views from the Viaduct, the Officer anticipates that the development proposal would be assimilated into the site without harming views out across the townscape as it would be low scaled and glimpsed in relation to the existing contemporary accommodation blocks. Due to being sunk into the ground it is considered that it would be unlikely to detract visually from the experience of the original hospital building in views from the railway.
81. It is considered that the above neutral impact within the setting of the WHS and Viaduct is demonstrated within the landscape and visual impact assessment document submitted
82. In conclusion, as the overall assessment is one of “less than substantial harm” when considered in the context of the NPPF Section 16 it is advise that this harm needs to be weighed against the public benefits of the proposal.
83. *Ecology* – Have no objection. It is advised that the BNG report and management plan are fine. It is noted that Monitoring is proposed with reporting to DCC and it is recommended that this be made subject of condition. The BNG of +1.13 habitat units and +0.02 units proposed is considered acceptable.
84. *Archaeology* – Note that the property is situated in an area which has the potential to contain archaeological remains. However, given the extent of previous development in the immediate vicinity, monitoring of the groundworks by means of a Watching Brief arrangement with provision for stoppage to record any archaeological remains would be sufficient and conditions are recommended in relation to both of these works.
85. *Landscape Officer* – Agrees with the findings of the Landscape and Visual Statement. While there would be some change to the character of the internal

landscape spaces - notably a change from an open informal grassed slope to a more formal terrace - the Officer considers that the proposals would be well integrated with, and in keeping with the character of, the wider Rushford Court development. The change in character would not generally be appreciated in views from outside of the site and the effect on the wider townscape would not be significant. The Officer advises that the landscape proposals are well considered, and it is considered that the reconfigured open space would have greater value for active use as amenity open space.

86. *Environmental Health and Consumer Protection (Air Quality)* – No objection but request conditions in relation to the development and implementation of a Dust Management Plan (DMP) within a Construction Management, which may include measures to control other emissions prior to commencement of any works and agreement of dust deposition, dust flux, or real-time PM10 continuous monitoring locations with baseline monitoring at least three months before work commences on site.
87. *Environmental Health and Consumer Protection (Contaminated Land)* – Note that the Phase 1 has identified the need for further site investigation. Given this, it is advised that standard conditions in relation to further site investigations, and if necessary, a remediation strategy and remediation works and verification to be undertaken should apply as should an informative in relation to unforeseen contamination.
88. *Environmental Health and Consumer Protection (Nuisance)* – Officers advise that as the proposed development is located on an halls of residence site it is envisaged relevant impacts will be within reasonable parameters given the character of the area. The Officer is not aware of any matters concerning the premises. It is advised that this would indicate that the development will not lead to an adverse impact providing relevant good practice and guidance is complied with.
89. It is considered that the information submitted demonstrates that the application complies with the thresholds stated within the TANS and that this would indicate that the development will not lead to an adverse impact. The Officer is satisfied, based on the information submitted with the application, that the development is unlikely to cause a statutory nuisance.

PUBLIC RESPONSES:

90. A total of 108 letters of consultation were sent out to surrounding residents and a site notice posted and the application was advertised in the Northern Echo. This has resulted in 1 letter of objection from a local resident. The concerns of the local resident are summarised as follows:
 - This is a change of use as it involves changing the site into a full college for the university which has wider impacts that stated as it is not limited to in-house residents.
 - There will be damage to the green space within the site.
 - There will be an increase in noise and disturbance to the adjacent residential area.
 - The previous planning permission was granted on the basis that it included green areas like this.
 - There will be more foot traffic over wider hours from the new uses on site.
 - The expansion of the University into the core of the city is causing damage to the city.

- There were significant objections to the initial development and this development should be assessed alongside this new development.

91. *The City of Durham Trust* – Have no comments to make on the proposed additions but advise that they welcome the conversion to a full college to help the University retain its reputation as a collegiate university and as it provides affordable and attractive accommodation to students that would help relieve the pressure on the city's stock of family homes.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:

<https://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

APPLICANTS STATEMENT

92. This application will enhance the existing student residential accommodation in order to create an integrated and high-quality communal college facility, serving as Durham University's 18th College. The proposal meets the appropriate criteria set out within policy 16 of the County Durham Plan and will create a new, high-quality amenity hub that will complement the existing site, known in other Colleges as the 'Heart' building, with no additional student bedspaces proposed. Existing amenity space on the Site does not provide the facilities required by the University in order to operate the Site as a College, and thus the proposals are essential in delivering a new College. Notably, the proposal will reduce the need for other land in the city to be developed for such a new College, thus making efficient use of the land and reducing pressure on land and housing supply. Being a conversion, the proposal will also facilitate the early delivery of a new College and, as detailed within the letter of support from the University, will in turn allow the regeneration of existing Colleges via 'decanting'.
93. In accordance with policy 29, 31 and 39 of the County Durham Plan, as well as part 2.F and 2.G of policy 16, the proposal has been designed to sit within the existing levels so as to minimise the visibility of the new building from outside the Site itself and avoid adverse landscape or visual impacts. Roof landscaping and various proposed planting will further screen the development whilst also introducing outdoor amenity space with improved usability. The new building is 'tiered' so as to mimic the existing outlook, will have no adverse daylight or sunlight impact against the existing situation and incorporates measures to preserve privacy and amenity of residents. Durham University, the end users of the development, have confirmed their support for the proposals and specifically their support for the proposed layout. They have confirmed that this is in keeping with other Colleges and that the College 'Heart' is required to be at the centre of the site, close to College residents.
94. In terms of heritage, the Applicant has identified a very low level of harm to the existing Harding building, a non-designated Heritage Asset. In accordance with policy 44 and paragraph 203 of the NPPF, this harm is required to be considered in the context of a 'balanced judgement' having regard to the scale of harm and the significance of the asset. Whilst not the Applicant's position, it is noted that were any level of harm to be identified to the Conservation Area, a designated Heritage Asset, then this harm would need to be weighed against the public benefits of the proposal in accordance with paragraph 202 of the NPPF.
95. In line with other Colleges, the development will open up the Site to the public and the front entrance gates will be removed. As per other Colleges, this will facilitate members of the local community playing an active role in College life through

involvement with Senior Common Rooms (SCR), mentoring, entrepreneurship, and community support. Outside of term time the College will work with its resident neighbours to enable use of the facilities for non-University members. Other public benefits include the wide economic benefits associated with supporting the University and some enhancement of the existing heritage assets by way of reinstatement of the original Harding Building entrance and removal of the entrance gates. The Applicant considers that the planning and public benefits arising as a result of the development would outweigh any harm identified to either the non-designated or designated heritage asset.

96. The proposal is considered to comply with relevant policies in respect of amenity, sustainability, transport and biodiversity and considered compliant with local and national planning policy as a whole. The proposed development is vital in enabling the University to deliver on their goal of housing students within University accommodation and will provide numerous benefits. Your support for the application is respectfully requested on this basis.

PLANNING CONSIDERATIONS AND ASSESSMENT

97. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 47 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of the development, heritage impacts, design considerations, amenity considerations, ecology, sustainable transport and highways design, planning for climate change, need, regeneration objectives and impacts on retail, employment, leisure, tourism and housing, accessibility, security, landscaping and green infrastructure, land stability, contamination and mineral safeguarding, flood risk and drainage, brownfield land, other issues and public sector equality duty.

The Principle of the Development

98. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) and the Durham City Neighbourhood Plan (DCNP) are the statutory development plan relevant to this proposal and are the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035. The DCNP was adopted in 2021.
99. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means:
- c) approving development proposals that accord with an up-to-date development plan without delay; or
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or,
- ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

100. The Council has an up-to-date development plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay (Paragraph 11 c). Accordingly, Paragraph 11(d) of the NPPF is not engaged.

101. The site is not allocated under the CDP and as a result CDP Policy 6 is one of the main determining policies. Policy 6 states proposals will be permitted within or adjacent to the built-up area provided that they are well related to the settlement and accord with all relevant development plan policies and:

- a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;
- b. does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
- c. does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
- d. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement;
- e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;
- f. has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;
- g. does not result in the loss of a settlement's or neighbourhood's valued facilities services unless it has been demonstrated that they are no longer viable; or
- h. minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;
- i. where relevant, makes as much use as possible of previously developed (brownfield)land; and
- j. where appropriate, it reflects priorities for urban regeneration

102. Criteria b) and g) are not considered relevant to this application. The development of the application site for the proposed use would gain some support in respect of criteria f), i) and j) and would be neutral in terms of criteria e) and h) but there would be some minor conflict with criteria a), c) and d) of Policy 6 and would therefore not gain full support in principle from this Policy. Detailed consideration of the scheme against the relevant criterion (a – j) of the Policy will occur in later sections of this report.

103. Whilst the proposal is not led by the University, they have confirmed their support for the proposal as it would enable the creation of an 18th College to add to the current family of existing colleges and have confirmed that the University has developed the proposals in partnership with Unite who will remain the operator of the building once established as a University College. This being the case it is considered that both parts 1 (Durham University Development) and 2 (Purpose Built Student

Accommodation) of Policy 16 of the CDP are applicable to this proposal. This Policy sets out criteria that new facilities will need to meet a-h and a-i respectively. In respect of this Policy the amended proposed development would generally accord with most criteria with some minor conflict in terms of failure to enhance the conservation area, part 1 criteria c.

104. In summary it is considered that the development of the application site would generally accord with CDP Policy 6 and 16 as the proposal has economic, social and environmental benefits, is compatible with neighbouring development, is sustainably located and acceptable in terms of highway safety and other technical matters which on balance outweighs the limited heritage harm and negative impact to the design and visual amenity of the overall site. The reasoning behind this judgement is set out in the consideration of the scheme against the relevant criterion of the Policy in later sections of this report and other principle policies relevant to determination of this application and other development management policies and sections of the NPPF that are also relevant.

Heritage impacts

105. The proposed development site is highly sensitive in heritage terms. The former County Hospital building today called "Rushford Court" is identified as a non-designated heritage asset (NDHA) and it is located within Durham (City Centre) Conservation Area (CA) and The CA encompasses the medieval core of the city that includes the Cathedral and Castle World Heritage Site (WHS). The site is within the setting of the WHS and numerous other designated heritage assets in the form of listed buildings.
106. The site occupies a prominent position on a highly visible corner at the north end of the commercial part of North Road. To the north of the site, it is noted are late C19 and some early C20 terraced houses rising steeply up Western Hill. To the northeast there is the elevated Victorian public part of Wharton Park on the opposite side of North Road. To the northwest there is the local nature reserve of Flass Vale, with Kingsgate Lodge and new housing on the site of the former bus depot at the Vale's entrance. To the south is Sutton Street with the 1855 Grade II* Listed Viaduct beyond and Victorian housing beneath and to the southwest is Waddington Street containing the United Reform Church and further Victorian terraced housing.
107. The impacts upon all of the above will be a primary consideration.
108. Criteria c) of CDP Policy 6 requires development to not result in the loss of open land that has heritage value or contributes to the character of the locality and criteria d) requires development to be appropriate in terms of scale, design, layout and location to the character, function, form and setting of the settlement. In respect of policy 16 Criteria a) requires new University facilities to respect the character and setting of the area, criteria b) requires there to be no unacceptable impacts on the Durham Castle and Cathedral World Heritage Site or its setting and requires opportunities to be taken to enhance and better reveal its significance. Criteria c) requires development to sustain and enhance the significance of designated heritage assets, including the conservation area, including their setting and where appropriate and to better reveal their significance. This criteria also states that any harm to the setting and/or significance of designated or non-designated heritage assets will not be supported unless the harm is outweighed by the public benefit.
109. Policy 45 of the CDP requires proposals to sustain and enhance the significance of the Durham Castle and Cathedral World Heritage Site, be based on an understanding of the outstanding universal value of the WHS with regard to the

adopted World Heritage Site Management Plan (WHSMP) and Statement of Outstanding Universal Value and protect and enhance the Outstanding Universal Value, the immediate and wider setting, and important views across, out of and into the site. It advises that development that would result in harm to the WHS or its setting will not be permitted other than in wholly exceptional circumstances.

110. Policy H1 of the City of Durham Neighbourhood Plan follows the thrust of the above policy but also requires opportunities to be taken to open up lost views and create new views and vistas of the WHS.
111. Policy 44 of the CDP expects development to sustain the significance of designated and non-designated heritage assets, including any contribution made by their setting. It requires development proposals to contribute positively to the built and historic environment and should seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets whilst improving access where appropriate. It also advises that great weight will be given to the conservation of all designated assets and their settings and advises that such assets should be conserved in a manner appropriate to their significance, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Development which leads to less than substantial harm to a designated heritage asset will be weighed against the public benefits of the proposal. Development which leads to substantial harm to, or total loss of, the significance of a designated heritage asset will only be acceptable where it can be demonstrated that it is necessary to achieve substantial public benefits that outweigh that harm or loss, or where number of criteria set out in the policy all apply.
112. In respect of listed buildings Policy 44 advises that development should respect the historic form, setting, fabric, materials, detailing, and, any other aspects including curtilage, which contribute to the significance of the building or structure and should retain the character and special interests of buildings when considering alternative viable uses.
113. In respect of conservation areas Policy 44 requires the demonstration of understanding of the significance, character, appearance and setting of the conservation area and how this has informed proposals to achieve high quality sustainable development, which is respectful of historic interest, local distinctiveness and the conservation or enhancement of the asset; and that regard is given to the manner in which the proposal responds positively to the findings and recommendations of conservation area character appraisals and management proposals; and respects and reinforces the established, positive characteristics of the area in terms of appropriate design (including pattern, layout, density, massing, features, height, form, materials and detailing).
114. Policy H2 of the City of Durham Neighbourhood Plan follows the general thrust of the above policy albeit with some more details and specific design criteria a-l.
115. The above policies are in conformity with and reflect Paragraphs 199-207 of the NPPF which covers how to consider potential impacts on heritage assets.
116. Policy G1 of the City of Durham Neighbourhood Plan seeks to avoid the loss of existing green assets with significant heritage value.
117. In addition to the above policies, in assessing the proposed development regard must be had to the statutory duty imposed on the Local Planning Authority under the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of a

conservation area. In addition, the Planning (Listed Buildings and Conservation Areas) Act 1990 also imposes a statutory duty that, when considering whether to grant planning permission for a development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. If harm is found any such harm must be given considerable importance and weight by the decision-maker.

118. In respect of impacts to the World Heritage Site It is considered that the development proposal would not result in harm to the setting of the WHS. Whilst there is intervisibility between the site and the WHS there would be no harm on account of the proposals position set back into the site behind the more substantial contemporary accommodation block in the south, the intervening topography, boundary walls, tree coverage, and built development outside the site. The proposed building would not be anticipated to directly affect the significant views towards the WHS attainable from the surrounding public realm. Due to the same intervening factors, it is considered that it would not impact upon any of the WHS Outstanding Universal Values.
119. With regards to Listed Buildings, it is considered that the proposal would relate to new built development within the visual envelope of the Grade II* Listed Durham Viaduct. The Viaduct is a landmark designated heritage asset within the city that affords significant views across the townscape towards the WHS from the east coast mainline. Due to the development proposal being contained within the former county hospital site situated behind the south accommodation block of greater scale, and due to being two storied sunk into the embankment, it is considered unlikely to form such a prominent or noticeable feature within local, medium and long distance views towards the Viaduct.
120. In views from the Viaduct, it is anticipated that that the development proposal would be assimilated into the site without harming views out across the townscape as it would be low scaled and glimpsed in relation to the existing contemporary accommodation blocks. Due to being sunk into the ground it is considered that it would be unlikely to detract visually from the experience of the original hospital building in views from the railway. Whilst the site falls within the 200-500m of many listed buildings, it is not considered that they require detailed assessment.
121. As the non-designated heritage of Rushford Court is within the setting of the conservation area it is necessary to assess the impacts upon the significance of this asset first to enable an assessment on the wider designated asset. The site is historically significant in representing one of the first developments along this key route out of the town as well as illustrating a key phase of development of health care provisions within the city.
122. The site is also considered to have aesthetic qualities resulting from the architectural style of the original hospital building and the mature landscaping of its grounds. The historic stone walls around the perimeter of the site and the stone retaining and terraced walls within the site are also considered of significance. It is considered that the siting and orientation of the original hospital building was seemingly designed to create a domestic villa character on the edge of the expanding town both for the well being of patients and to increase the profile of the hospital which was at the time reliant on fundraising.
123. In terms of the impact of the Hub building on Heritage Significance & Design Related Matters, it is considered that there would be no impact on the significance (physical fabric) of the NDHA, but there would be an impact upon its setting that contributes to

its significance. It is noted that the heritage statement summarises that the effect of the development proposal on setting would result in some harm and that this would be caused by the building's intrusion and formalising of the terraced area that is presently landscaped, and the associated raised elements above. However, Conservation Officers consider that there are additional harmful factors.

124. It is considered that the architectural response to the sites constrains as part of the original permission left this land intentionally undeveloped following the clearing of intrusive built interventions. It is advised that this was to enhance the spaces around the original hospital building, allowing it to breath, and to create a courtyard landscape foreground setting. It is considered that the proposal would compromise the original architectural design intent in this regard and would draw the contemporary and historic built form closer together.
125. Furthermore, part of the aesthetic qualities of the site relates to the retained mature and informal landscaping of the main buildings grounds that link to adjacent green spaces. It is considered that the proposal would result in the loss on one such area to the detriment of the sites aesthetic quality.
126. The applicant has proposed the reinstatement of the original Harding Building entrance which would enhance this element. The applicants also propose the installation of interpretation panels around the site to detail the history of the site, the Harding building, the site's historical context and the former function of the Harding Building. Whilst this would allow for a better understanding of the heritage asset, Officers do not consider such a measure necessary in the digital age. These measures must be considered against the fact that the Hub building development itself presents some harm to the setting of the NDHA.
127. The site is of some archaeological interest, however given the previous development at the site there is limited potential for archaeological remains, nonetheless should planning permission be granted conditions can ensure pre-development evaluation of areas where the new build would take place, and mitigation measures put in place should they be necessary.
128. It is noted that the heritage statement identifies that the level of harm arising overall to significance of the NDHA by the development proposal within its setting will be "less than substantial" and Officers consider that an accurate summary.
129. Turning to the designated asset of the Conservation area, the significance is described as being the drama of the Viaduct, the railway line and the two and three storied historic terraced built form which due to the topography of the area produces a stepped roofline. In contrast the Conservation Area appraisal notes that it is considered the County Hospital site is of a distinct different character, set back from the roadside and elevated fronting onto North Road and Sutton Street where its Elizabethan frontage is identified in the appraisal as a key historic landmark and focal point of high architectural value. Furthermore, it is pointed out that the appraisal recognises the aesthetic qualities and importance of the landscaped grounds which link to the adjacent green spaces at Flass Vale and Wharton Park. It is considered that the buildings significance has been enhanced by the previous permission by removing the later incongruous additions that have better revealed the significance of the original hospital building in its plot and secured its full restoration. It is advised that the combination of the above contribute very positively to the character and appearance of the surrounding CA.
130. It is noted that the heritage statement identifies that the impact on the Conservation Area (Defined in the NPPF and HE guidance as a designated Heritage Asset) is

likely to sustain significance because there is no perceptible change that would be great enough to affect its character and appearance. However, it is considered that this purely places the emphasis on views. By virtue of harm being identified to the immediate foreground setting of a high value NDHA (A component part of the Conservation Area) that contributes very positively to the significance of the CA, by default that significance would be neither sustained or enhanced if it is subjected to harm, albeit very minor harm.

131. In conclusion, there is some conflict with Policy 44 of the CDP, Policy 16 part 1 criteria c) and Part 16 of the NPPF as the proposal fails to sustain or enhance the significance of the conservation area and the setting of a non-designated heritage asset or better reveal the significance. As the overall assessment is one of “less than substantial harm” when considered in the context of paragraph 202 of Part 16 of the NPPF and Policy 44 of the CDP it is advised that this harm needs to be weighed against the public benefits of the proposal.
132. National Planning Practice Guidance describes public benefits as being anything that delivers economic, social or environmental objectives of the NPPF. Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit.
133. In terms of public economic benefits, the CDP recognises that Durham University is a major asset to the city, shaping the built environment, contributing to the cultural and heritage offer, developing highly skilled individuals as well being a major employer and a purchaser of local goods and services. The University is also renowned for its research departments and facilitates business and industrial research, including at NETPark, the North East’s only science park. In this context, there are clear positive economic benefits in supporting University related development.
134. There would be some limited public benefits from the reinstatement of the original entrance to the Harding building as these would enhance the significance of this non designated heritage asset. As the development would enable the site to become part of the University College this will establish a stronger sense of place for this area of Durham which is another positive environmental benefit. Following further discussions around improving the heritage aspects of the scheme the applicants have now also agreed to remove the security gates at the front of the site and visible from the public realm of the conservation area, this is also now an added benefit.
135. The applicant originally made the case that there would be social public benefits as the proposal would maintain modern student life and social activities which would help to support well being and health among the students. However, the NPPF advises that public benefits should be of a nature or scale to be of benefit to the public at large and not just a private benefit. To address concerns over the lack of public benefits the applicant also now propose to open the grounds to the public and detail that the college would have a Senior Common Room community which includes members of the local community who can mentor students and use the college for events and functions. It is also now detailed that the facilities would be available for booking by non-residents for meetings, conferences etc outside of term times. It is also detailed that the University colleges often invite the wider public for events and support mentoring, entrepreneurship and community support opportunities which would bring wider social public benefits.
136. It is also detailed that the proposal would allow the temporary re-location of the existing college of St Hild and Bede, which in turn would allow this existing college to be re-furnished and re-developed in line with the Durham University Strategy. This is

part of the wider plan to increase student numbers and to better consolidate academic disciplines in distinct geographical ones to ease pedestrian congestion and reduce travel distances and frequency of transit. This is an environmental benefit.

137. Whilst the applicant make the case that the proposal will allow for the 'decanting' of students from the College of St Hild and Bede so that essential works can take place to improve facilities and bed provision at these historic colleges as proposals are not under consideration formally this can carry neither positive or negative weight in terms of public benefits assessment.
138. The applicant also advises that another public benefit of the proposal would be that it would reduce the need for other land in the city to be developed for this purpose. However, this carries little weight as without knowing other potential sites and schemes as Officers cannot be sure that these would be less preferable in policy terms that the scheme under consideration.
139. Another public benefit detailed by the applicant is that the conversion would allow the university to stay ahead of its growth forecast and avoid family housing being lost to use as HMO's however the Local Authority has control over such changes of use by way of Article 4 Directions which have removed permitted development rights for change of use from C3 to C4 for Durham City, Framwellgate Moor, Newton Hall and Pity Me and such applications would need to meet the criteria of Policy 16 of the CDP. This stated public benefit therefore carries little positive weight.
140. In this instance, Officers accept that there are economic, environmental and social benefits associated with the development and whilst it is considered that the proposal is finely balanced in this respect it is considered that these benefits just tip the balance positively to outweigh the less than substantial harm to the setting of the NDHA and the designated asset of the conservation area the proposal is therefore acceptable in accordance with Policy 44 of the CDP and Part 16 of the NPPF and the balancing exercise provides justification for overriding the presumption in favour of preservation contained within this local and national policy and DCNP Policy H2. There would be some conflict with CDP Policy 6 and 16 and DCNP Policy G1 as the proposal results in the loss of open land that has heritage value which contributes to the character of the locality this conflict is accepted when weighed in the overall planning balance.
141. The above balancing exercise and regard to material planning considerations satisfies the statutory duties under the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area and to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest that they possess.

Design Considerations

142. In more general design terms, CDP Policy 16 requires the design and layout of uses within developments such as this to be appropriate to the location and of an appropriate standard. Policy 29 of the CDP requires all development proposals to achieve well designed buildings having regard to supplementary planning documents and other local guidance documents where relevant, and contribute positively to an area's character, identity and landscape features, helping to create and reinforce locally distinctive communities. Similar sustainable design guidance is provided through DCNP Policy S1.

143. Section 12, Paragraph 130 of the NPPF requires developments to add to the overall quality of an area, be visually attractive, be sympathetic to the local character and history, establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming, and distinctive places to live, work and visit.
144. There are no concerns in respect of the standard of the facilities proposed within the hub building or the materials being proposed which can be controlled by condition. The development would facilitate the site to become a college which will establish a stronger sense of place. In respect of scale, mass and form it is appreciated that this is difficult and tightly constrained site to develop. The design has evolved positively from its initial concept but will nonetheless result in substantial changes to the overall site reducing spaces around the original hospital building and altering the courtyard landscape foreground setting. It is considered that the proposal would compromise the original architectural design intent in this regard and would draw the contemporary and historic built form closer together.
145. Furthermore, part of the aesthetic qualities of the site relates to the retained mature and informal landscaping of the main buildings grounds that link to adjacent green spaces. It is considered that the proposal would result in the loss on one such area to the detriment of the sites aesthetic quality to the main landscape feature on the site. Whilst the new building is well screened from outside of the site, from within the site the proposal has a negative cumulative impact on the overall visual amenity of site and presents as overdevelopment which fails to be sympathetic to the site and character of the area. There is therefore considered to be some conflict with CDP Policies 16 and 29, DCNP Policies S1, H2 and Part 12 of the NPPF in more general design terms.

Amenity Considerations

146. Policy 16 of the CDP requires the activities of the occupiers of the development to not have an unacceptable impact upon the amenity of surrounding residents in itself or when considered alongside existing student housing. Policy 29 of the CDP requires proposals to provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties. Policy 31 of the CDP requires development to have no unacceptable impact on living conditions. It advises that proposals which will have an unacceptable impact, such as through noise, will not be permitted unless satisfactory mitigation measures can be demonstrated.
147. Policy S1 of the DCNP provides similar advice to ensure that any impacts upon neighbouring occupiers or impacts of pollution are acceptable.
148. Paragraph 130 (f) of the NPPF requires developments to have a high standard of amenity. Paragraph 185 of the NPPF requires new development to be appropriate to its location taking into account the likely effect of pollution on health, living conditions and the sensitivity of the area. The framework requires development to mitigate and reduce to a minimum potential adverse impact resulting from noise from new development and to avoid noise giving rise to significant adverse impacts on health and quality of life.
149. The proposed hub building which would include a café/bar is very close to Student accommodation on site and the site itself is close to residential properties. Concerns have been raised by a local resident in relation to noise and disturbance particularly at later hours. It is noted that the current small Hub Building on site is restricted to

0900-2200 and originally the applicant proposed the new Hub to be open similar times to other college bars which close between 11pm and midnight.

150. The submitted noise assessment has considered the potential for noise from the bar and recommends limits at which levels amplified music can be played subject to which glazing specification is installed and that a Noise Management Plan be produced to outline how the noise levels will be controlled and what steps will be taken to address any complaints from any nearby residents. In relation to fixed plant and machinery the report recommends threshold values for any fixed plant. The applicants are agreeable to conditions in relation to these matters and the Environmental Health and Consumer Protection (Nuisance) Officer is satisfied with the recommendations given the character of the site. Given the part of the building which houses the bar is further away from private residences than the current Hub an extension of hours is accepted, however given the close proximity to student accommodation it is considered that opening hours for the new building should cease at 11pm Mon-Sat and 10.30pm on Sundays. Issues such as Anti-Social Behaviour can be controlled with an updated Management Plan. Given the location of the new facilities building set within the site and surrounded by existing buildings it is not considered that there would be other impacts to existing residential amenity from the proposed development.
151. With respect to air pollution, due to the proximity of sensitive receptors it is considered that dust control and monitoring measures would be required during the construction phase to be set out within a Construction Management Plan, this can be ensured by way of planning condition. The Environmental Health and Consumer Protection (Air quality) Officer raises no objection subject to this condition.
152. In terms of privacy, the development is close to and has public areas which would allow views across and downwards into student accommodation within which students reside. Whilst purpose built student accommodation does not fall within the residential planning use class it is nonetheless a place where people reside and therefore Policies 16 and 29 of the CDP requires the activities of the occupiers of the development to not have an unacceptable impact upon amenity when considered alongside existing student housing. The development incorporates two terraces, one at roof level 11m distant from bedroom windows, one at first floor level at 6.5m distance from bedroom windows. The hub has windows from communal facilities and security offices that would look across and down into bedrooms from 10.4m distant. At ground floor there are further windows from the café/bar and communal areas that look across to the student accommodation bedrooms opposite at only 6.2m distant.
153. These design aspects raised serious concerns over privacy to students with secondary concerns in terms of the light and outlook afforded the student bedrooms. Whilst the pathway in front of the student accommodation block and the grassed slope both already allow for views into the bedrooms currently the proposal would see an intensification of people and time spent congregating in the area with consequential greater privacy impacts.
154. To address the privacy aspect the applicants have amended the proposal and are now proposing to install full-height reflective vinyls to all of the courtyard facing windows of Block A and all the western and eastern facing windows of Block A and to the ground, first, second and third floor east facing windows of Block B. These vinyls would allow students to see out of their bedroom windows but prevents any views into the bedrooms. Whilst this would resolve the privacy issue and can be ensured via condition in design terms this is a retrograde step for these two buildings as it moves away from the original design concept.

155. In terms of light and outlook, the Hubsite is located to the rear of the 2 storey student accommodation property which at a lower level than the former Hospital Building. The student accommodation is accessed at ground level using stairwells on the west side. To the east of the student accommodation block there is a high retaining wall and to the west there is the second student accommodation building (block B/C). The change in levels in conjunction with the proximity of large structures at each side already gives the rear of the student accommodation block A an enclosed and somewhat subterranean character.
156. As detailed above, the proposed two storey Hub building would be built in close proximity to the student accommodation block and therefore concerns were raised with the applicants that the proposal would significantly worsen the light and outlook for ground, first and second residents on the rear of Student block A.
157. It is noted that the grassed slope currently raises up from a point closer to the bedrooms than that the proposed two storey building however the proposed building increases in height less gradually than the sloping land and therefore would have a greater impact on light than the current slope. Residents outlook would change from that of a gabion wall and grassed slope to an active urban frontage and roofscape. To address these issues the applicants have undertaken a daylight and sunlight assessment which details that acceptable levels of daylight would be achieved in 98% of the rooms within the student blocks and where they are not achieved there would be a low level impact only. Furthermore, the BRE guidelines for both annual and winter sun levels would be achieved. In terms of outlook the applicants have supplied visuals to detail the relationship between the two properties and Officers are satisfied that the new Hub building would not have a significantly greater overbearing impact on the student population on the rear ground floor than that currently experienced and would be more visually appealing in some respects. The first floor rear bedroom occupiers would lose an outlook to a green landscaped area however this would be replaced with an active terrace with some landscaping and an interesting building form. Those at second floor level would experience a change to a more urban view with roof paraphernalia, but the impacts are not significant given that this roof area is to be landscaped.
158. Bearing the above information in mind, it is considered that whilst the proposal is of a lesser standard of privacy than what we would accept for residential properties a lesser standard can be accepted in this instance given transient nature of the accommodation, the mitigation proposed in the form of vinyl screening, given the minimal differences in terms of daylight and sunlight and given the proposed building would not be an overbearing inactive urban form. It is therefore considered that there would not be unacceptable impacts on the living conditions of the student residents. On this basis it is considered that the proposed development complies with CDP Policies 16, 29 and 31, Policy S1 of the DCNP and Paragraph 130 of the NPPF in that respect.

Ecology

159. CDP Policy 16 and Policy 41 both requires development to not significantly harm ecology and biodiversity and policy 41 seeks to minimise impacts to biodiversity and provide net gains for biodiversity. Similarly, DCNP Policy S1 seeks to protect and enhance the biodiversity and geodiversity of the neighbourhood plan area. Section 15 of the NPPF similarly seeks to minimise impacts and provide net gains for biodiversity.
160. The proposal would result in the loss of 0.052ha of modified grassland. To compensate for this the application proposes landscaping including new native

hedgerow and the enhancement of woodland habitat on the site. The application is supported by a Biodiversity Net Gain report and a Biodiversity Management and Monitoring Plan which details a positive 21.6% total net increase in Habitat Units and a positive 14.47% increase in Hedgerow Units. The Ecologist is satisfied that subject to these measures being conditioned appropriate BNG would be achieved for the site. As a result, the proposals are considered to accord with Policy 41 of the CDP, Policy S1 of the DCNP and Section 15 of the NPPF.

Sustainable Transport and Highways design

161. Policy 16 of the CDP requires that when considering University development consideration be given to the movement of staff and students around the city and that measures be provided to mitigate impacts where necessary. This policy also requires cycle and parking spaces and electric vehicles charging points to be provided in accordance with the County Durham Parking and Accessibility Supplementary Planning Document (SPD). Policy 21 of the CDP requires all development to deliver sustainable transport by amongst other less relevant criteria ensuring that any vehicular traffic generated by new development can be safely accommodated and ensuring development has regard to Parking and Accessibility Supplementary Planning Documents. Policy 22 of the CDP addresses Durham City Sustainable Transport and seeks to manage demand and transport improvements so as to reduce the dominance and impact of vehicles.
162. Paragraph 110 of the NPPF advises that development has opportunities to promote sustainable transport modes, that a safe and suitable access to the site can be achieved for all users, that the design and parking meet national guidance and that that any impact upon the network can be mitigated. Paragraph 112 requires developments to incorporate pedestrian and cycle priority, address the needs of people with disabilities and reduce mobility, create places that are safe, secure and attractive, all for service and emergency vehicles access and to enable charging of plug in and other ultra-low emission vehicles.
163. Policy T1 of the DCNP requires development proposals to be supported by evidence of how they contribute to sustainable transport accessibility and design where appropriate. It requires approach routes and access within the site to be accessible. It requires adverse transport impacts to be avoided where practicable or mitigated. It requires alterations to existing roads to have good permeability and connections, traffic calming measures and a high-quality public realm.
164. The application is supported by a Transport Statement which concludes that the proposed development accords with highway access design recommendations and sustainable values. The proposal would better consolidate academic disciplines in distinct geographical ones to ease pedestrian congestion and reduce travel distances and frequency of transit which is a positive. Given that the proposed new Hub is an ancillary use and would not involve an increase in bedrooms the Highways Officer is satisfied that the proposal would not result in an increase in traffic or a need for additional or new types of parking such as ELV chargepoints on the site.
165. The site has a secure vehicle and pedestrian access currently along with parking areas, footways and a cycle store none of which are proposed to be altered. The site is in an accessible location and is well located to make use of the existing public transport links and pedestrian /cycle routes in Durham City. The proposed Hub building would still allow pedestrian access through the site and would not impact on cycle accessibility. The proposed Hub building includes a lift to address the needs of people with disabilities and reduced mobility.

166. Bearing the above in mind it is considered that the proposal would accord with Policies 16, 21 and 22 of the CDP, Policy T1 of the DCNP and Part 9 of the NPPF and Policy T1 of the DCNP.

Planning For climate change

167. Policy 16 requires proposals to exploit sustainable energy opportunities, including the delivery of district heating where possible. Policy 29 of the CDP requires all development proposals to minimise greenhouse gas emissions, by seeking to achieve zero carbon buildings, minimise the use of non-renewable and unsustainable resources. Similarly, amongst its advice, DCNP Policy S1 seeks to ensure that development utilises energy efficiently, minimising consumption and carbon emissions. The policy also requires all major non-residential development to achieve Building Research Establishment Environmental Assessment Method (BREEAM) minimum rating of 'very good'. Paragraph 157 of the NPPF requires development to take account of landform, layout, building orientation, massing, and landscaping to minimise energy consumption.
168. Although not a zero-carbon building or a building targeting a BREEAM rating this is a low carbon building under 1000sq m with air source heat pumps for cooling and heating and energy to be generated for new solar panels on the surrounding accommodation buildings. The submitted Sustainability and Energy Assessment details that the site will achieve a 2.13% CO2 saving beyond the building regulation requirements. It forms part of a wider site of larger buildings that achieve 'very good' and 'excellent' BREEAM ratings. The proposal is therefore considered to perform acceptably in relation to the aforementioned policy guidance.

Need

169. Policy 16 of the CDP requires extensions to PBSA to evidence that there is a need for additional student accommodation of this type in this location and to provide evidence from the education provider in this respect.
170. This application details that further colleges within the Durham City Centre are required to enable to expansion of the University and to consolidate colleges in particular areas. Currently Rushford Court is lacking in modern amenity facilities expected by students on site and available at current colleges therefore it is accepted that there is a need for the Hub extension on site to create an integrated and high-quality communal college facility.
171. It is noted that the developer has had engagement with Durham University officials throughout the development of this application. The University operated a community consultation event in conjunction with Unite and the University has developed the application proposals in partnership with Unite. A letter of support from the University supports this application evidencing the university support for the proposed development. The need for the development is therefore accepted in accordance with CDP Policy 16.

Regeneration objectives and impacts on retail, employment, leisure, tourism and housing

172. Policy 16 of the CDP requires development to not result in a significant negative impact on retail, employment, leisure, tourism, housing or the council's regeneration objectives
173. The proposal will enable the early delivery of a new college ensuring the university can stay ahead of their growth forecast and reduce pressure for conversion of family

housing. In respect of regeneration there are positives in respect of ensuring a thriving Durham City, competitive and successful people and ensuring that Durham is a top location for Business, with positive knock on effects to retail, leisure and tourism for the University expansion. The proposal gains support from CDP Policy in this respect.

Accessibility

174. Policy 16 requires new PBSA facilities to be readily accessible to an existing university academic site which this is being approximately 1km on foot to the closest academic buildings in the centre of Durham City Centre and close to a main bus station with routes to the wider university buildings around the city. The proposal therefore accords with Policy 16 in this respect.

Security

175. Policy 16 of the CDP require consideration to be given to security of the building and its occupants along with that of other local residents and legitimate users. It is noted that the upper storey of the proposed amenity hub will comprise of Facilities Management and security offices to the east, overlooking the main site entrance thus providing passive security. This will allow students, deliveries and unscheduled guests to be greeted and monitored as they enter the site. On this basis, the development improves the security of the site and thus the safety of the students living in and passing through the area. The removal of the security gates to improve upon the heritage aspects is accepted in security terms given the surveillance detailed above and as other colleges are similarly open. The proposal therefore meets the security requirements of CDP Policy 16.

Landscaping and Green Infrastructure

176. CDP Policy 29 requires landscaping proposals to respond to topography, existing features, and wildlife habitats. It requires consideration of views of and from the site and that the design reflects any features characteristic of the locality such as boundaries, paving materials, and plant species. It welcomes opportunities for wildlife and in the case of edge of settlement development requires an appropriate level of structural landscaping to screen or assimilate the development into its surroundings and provide an attractive new settlement boundary.

177. The applicant has submitted a landscaping strategy to include structural planting adjacent to the current student block A with ornamental planting in front of the student block and the ground floor of the Hub with ornamental planting on the terrace above and large areas of ornamental and naturalistic planting on the planting on the Hub Roofscape. The details are considered satisfactory, and a condition can ensure their delivery and compliance with Policy 29 of the CDP.

Land Stability, Contamination and Mineral Safeguarding

178. Policy 32 of the CDP restricts development on despoiled, degraded, derelict, contaminated or unstable land unless it can be demonstrated that such issues can be addressed by mitigation measures, the risks are not unacceptable, and all investigations and risk assessments have been undertaken. Section 15 of the NPPF requires Local Planning Authorities to enable the remediation of contaminated land where appropriate. In terms of contamination further site investigations are required however this detail and any identified remediation works required can be ensured via condition. With such a condition the development accords with Policy 32 of the CDP.

179. The site lies within a Coalfield Development Low Risk Area. A Coal Mining Risk Assessment is therefore not required. Should planning permission be granted then it would be necessary to include its Standing Advice within the decision notice as an informative note to the applicant in the interests of public health and safety.
180. As the land is within the curtilage of developed land it is considered previously developed land. Environmental Health and Consumer Protection (Contaminated Land) Officers raise no objection subject to conditions requiring further site investigations.
181. With such conditions and informatives the development would accord with Policy 32 of the CDP.
182. The application site is located within a Mineral Safeguarding Area to which CDP Policy 56 relates. This Policy advises that planning permission will not be granted for non-mineral development that would lead to a sterilisation of mineral resources unless certain criteria apply, or the development is deemed exempt. The applicants have submitted a Minerals Assessment which concludes that there will be no increase in sterilisation of the sand and gravel deposits above what is already present. In addition, it is also considered that the future development will not result in the sterilisation of coal resources beneath the site as the resource remains viable for exploitation from external underground extraction methods. It is also considered it would not be possible to extract and process any of the sand and gravel or sandstone deposits on the site without causing unacceptable levels of noise, dust and traffic to existing residents of the property on the site and within the surrounding areas of the site. Therefore, it is considered the proposed development is compatible with the mineral safeguarding policies.

Flood Risk and Drainage

183. Policy 35 of the CDP requires that all development consider the effect of development on flood risk and ensure there to be no net increase in surface water run-off for the lifetime of the development. Similarly, amongst its advice Part 14 of the NPPF requires Local Planning Authorities to ensure that developments do not result in an increase in flood risk off site.
184. The application site is located within Flood Risk Zone 1 and therefore on land least prone to any river flooding. The surface water drainage details are to drain to a mains sewer. The applicant has submitted a surface water management plan and hydraulic calculations which are acceptable to the Council's Drainage and Coastal Protection officers therefore a condition could ensure compliance with these documents. Northumbrian Water has no objection subject to the development according with the submitted drainage scheme.
185. Policy 36 of the CDP requires foul water to drain to a hierarchy with connection to the public sewer being the most suitable option. The drainage is proposed to a main sewer which is appropriate provided it is to a specified manhole and this can be ensured via condition.
186. With the conditions detailed above it is considered that the proposal would accord with CDP Policies 35 and 36 and Part 14 of the NPPF.

Brownfield land

187. Policy 6 of the CDP requires development to make as much use as possible of previously developed (brownfield) land and this is reflective of Part 11 of the NPPF, the development would be considered to accord with these policies.

Other Issues

188. A local resident has raised concerns that this is a change of use as it involves changing the site into a full college for the university which has wider impacts than stated as it is not limited to in-house residents. The proposed Hub Building is considered ancillary to the wider sui generis student accommodation use and whilst it may become a college in the collegiate University sense this would not change the use to a college for educational purposes.
189. The resident is concerned that the expansion of the University into the core of the city in terms of student numbers and presence and that the impacts of this is causing damage to the city. Whilst these concerns are acknowledged there are now tighter planning controls and policies in place in relation to HMO conversions. These alongside accommodation strategies to improve current facilities and attract students to stay in current Halls of Residence such as this proposal should improve upon rather than exacerbate the further studentification of areas of Durham City.
190. It is noted that the objector points out that there were significant objections to the initial PBSA development, and that the retention of the space was considered as part of the acceptability of that development. Whilst there is not a similar level of objection to this expansion and whilst each application is determined on its own merits, the cumulative impacts of both developments have been considered as part of the assessment.

Public Sector Equality Duty

191. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
192. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

193. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
194. The acceptability of this application rests upon a very fine judgement based on balance. On the one hand, development of the application site would generally accord with CDP Policy 6 and 16 as the proposal has economic, social and environmental benefits, is compatible with neighbouring development, is sustainably located and acceptable in terms of highway safety and other technical matters. On the other hand, it has been held by the Council's Design and Conservation Officer

that harm, albeit less than substantial, would result from the proposal to the significance of both a non designated heritage asset (the historic hospital) and the designated heritage asset (the conservation area) due to the impacts on the setting of the NDHA within the conservation area. On balance the public benefits are considered to outweigh the harm

195. Concerns in respect of amenity impacts have been addressed and can be appropriately managed by condition in accordance with Policies 26, 29 and 31 of the CDP, Policy S1 of the DCNP and Paragraph 130 of the NPPF.
196. Acceptable levels of Biodiversity Net Gain are proposed and can be ensured via condition. As a result, the proposals are considered to accord with Policy 41 of the CDP, Policy S1 of the DCNP and Section 15 of the NPPF.
197. The proposal is considered to perform acceptably in relation to sustainable design in accordance with Policy 16, 21 and 22 of the CDP and Paragraph 110 and 112 of the NPPF and Policy T1 of the DCNP.
198. The proposal has demonstrated that there is a need for the development, that the proposal would not result in a significant negative impact on retail, employment, leisure, tourism, housing or the Council's regeneration objectives that it is accessible and safe in accordance with CDP Policy 16.
199. An acceptable landscaping scheme has been proposed in accordance with Policy 29 of the CDP and Part 15 of the NPPF.
200. Conditions can ensure that the site is suitably remediated in accordance with Policy 32 of the CDP and Section 15 of the NPPF.
201. It is considered the proposed development is compatible with the mineral safeguarding CDP Policy 56 and Part 17 of the NPPF.
202. Conditions can ensure that the site is suitably drained and avoids flooding issues in accordance with Policies 35 and 36 of the CDP and Part 14 of the NPPF.
203. The proposal makes appropriate use of brownfield land in accordance with Paragraph 11 of the NPPF.
204. It is considered that the amended application has just tipped the balance of harm versus benefits in favour of the revised scheme. Other material considerations raised are not considered to alter the above assessment.
205. Therefore, on most careful balance, the benefits of this proposal are now considered to outweigh the harm and therefore the application can be supported in line with relevant policies of the County Durham Plan, the City of Durham Neighbourhood Plan and relevant sections of the NPPF.
206. The proposed development has generated some public interest, with one letter of objection having been received. Concerns expressed regarding the proposal have been taken into account, and carefully balanced against the benefits of the scheme.

RECOMMENDATION

207. That the application be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the following approved plans:

Heritage Building- Plan Level 00 HB-00DR-A-0824 Rev P02 2/11/22
Heritage Building Existing & Proposed Elevations RCA-CL-HB-XX-DR-A-0843 P01 2/11/22
Management Building – Plan Level 00 MB00-dr-a-0826 Rev P02
Management Building – Existing and Proposed RCA-CL-MB-XX-DR-A-0842 P01 2/11/22
New Build - Plan Level 00 RCA-CL-NB-00-DR-A-0820 P05 19/12/22
New Build- Plan Level B1 RCA-CL-NB-B1-DR-A-0821 P05 19/12/22
New Build - Plan Level B2 RCA-CL-NB-B2-DR-A-0822 P05 19/12/22
New Build – Building Sections AA to DD RCA-CL-NB-XX-DR-A-0833 P03 19/12/22
New Build - Building Elevations EE to HH RCA-CL-NB-XX-DR-A-0841 P03 19/12/22
Electrical Services Levels B1 XX-B1-DR-E-6001 Rev PO1 2/11/22
Mechanical Services – Heating/Cooling XX-B1-DR-M-6001 Rev P03 2/11/22
Mechanical Services Heating/Cooling XX-B2-DR-M-6002 Rev P05 2/11/22
Electrical Services Level B2 XX-BE-DR-E-6002 REV P01 2/11/22
Electrical Services Proposed External XX-XX-DR-E-9600 Rev P01 2/11/22
Mechanical & Electrical Services XX-XX-DR-ME-9601 Rev P01 2/11/22
Mechanical & Electrical Services XX-XX-DR-ME-9602 Rev P01 2/11/22
Existing and Proposed Site Section K ZZ-XX-DR-A-0830 Rev P02 2/11/22
Existing and Proposed Site Section L ZZ-XX-DR-A-0831 Rev P02 2/11/22
Existing and Proposed Site Section M ZZ-XX-DR-A-0832 Rev P02 2/11/22
Existing and Proposed Site Elevation ZZ-XX-DR-A-0840 Rev P02 2/11/22
OS/Site Location Plan ZZ-00-DR-A-0801 Rev P01 2/11/22
Flood Risk and Drainage Impact Assessment P22-275-ZZ-XX-HYD-RP-C-9000 21/10/22
Proposed Site Layout RCA-CL-ZZ-00-DR-A-0811 P02 16/03/23
Planting Strategy 00-D-L-000040 Rev P02 09/3/22
Proposed Site Layout Block Plan RCA-CL-ZZ-00-DR-A-085 PO1 16/03/2023

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 6, 16 and 29 of the County Durham Plan and Policy S1 of the City of Durham Neighbourhood Plan and Parts 12 and 16 of the National Planning Policy Framework.

3. No development above damp proof course level shall commence until samples of materials to be used in the construction of the main walls of the building have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason: In the interests of the visual amenity of the surrounding areas in accordance with Policies 29 and 44 of the County Durham Plan and Policy S1 of the City of Durham Neighbourhood Plan and Parts 12 and 16 of the National Planning Policy Framework.

4. Prior to the use of the Hub building commencing full-height reflective opaque vinyls shall be installed to all of the courtyard facing windows of Block A and all the western

and eastern facing windows of Block A and to the ground, first, second and third floor east facing windows of Block B as detailed on plan Proposed Site Layout Block Plan RCA-CL-ZZ-00-DR-A-085 PO1 16/03/2023. These vinyls shall be retained on site in perpetuity.

Reason: In the interests of the residential amenity of surrounding properties in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

5. The approved Hub facility building shall not be open to students or visitors outside the hours of 7.30am to 11pm Monday to Saturday and 07.30am to 10.30pm Sundays and Bank Holidays.

Reason: In the interests of the residential amenity of surrounding properties in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

6. Prior to the commencement of the use of the development hereby permitted, a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall take place in accordance with the approved details and the approved details shall be adhered to.

Reason: In the interests of the residential amenity of surrounding properties in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

7. The development shall take place in accordance with the maximum noise levels detailed within the Noise Impact Assessment dated 12/10/2022.

Reason: In the interests of the residential amenity of surrounding properties in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

8. Prior to the commencement of the use of the development hereby permitted, an updated Accommodation Management Plan and Waste Management Strategy shall be submitted to and approved in writing by the local planning authority, and thereafter shall be implemented and adhered to at all times.

Reason: In the interests of the residential amenity of surrounding properties in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

9. No development shall commence until a written scheme of investigation setting out a programme of archaeological work in accordance with 'Standards for All Archaeological Work in County Durham and Darlington' has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work will then be carried out in accordance with the approved scheme of works.

Reason: To safeguard any Archaeological Interest in the site, and to comply with part 16 of the National Planning Policy Framework. Required to be a pre-commencement condition as the archaeological investigation/mitigation must be devised prior to the development being implemented.

10. The development shall not be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation.

The provision made for analysis, publication and dissemination of results, and archive deposition, should be confirmed in writing to, and approved by, the Local Planning Authority.

Reason: To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure information gathered becomes publicly accessible.

11. Development shall be carried out in line with the drainage scheme contained within the submitted document entitled "Existing Drainage Abandonment Plan" dated "22nd September 2022" within the Flood Risk and Drainage Impact Assessment P22-275-ZZ-XX-HYD-RP-C-9000 21/10/22. The drainage scheme shall ensure that foul flows discharge to the combined sewer at manhole 7615 and ensure that surface water discharges to the existing watercourse.

Reason: To prevent the increased risk of flooding from any sources in accordance with CDP policies 35 and 35 and Part 14 of the NPPF.

12. A Phase 2 site investigation shall be carried out, which shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.

Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

13. Remediation works shall be carried out in accordance with the approved remediation strategy. The development shall not be brought into use until such time a Phase 4 verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework.

14. Prior to their installation details of any fume extraction and/or ventilation equipment shall be submitted to and approved in writing by the Local Planning Authority. All equipment detailed as part of the approved scheme shall thereafter be retained, operated and maintained in accordance with the approved details so long as the use continues.

Reason: In the interest of the amenities of neighbouring properties in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

15. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:

A Dust Action Plan including measures to control the emission of dust and dirt during construction. This shall agree dust deposition, dust flux, or real-time PM10 continuous monitoring locations with the Local Authority. Baseline monitoring shall

be undertaken at least three months before work commences on site. The DMP shall include details on how the developer intends to plan to monitor the effectiveness of the dust control measures.

Details of methods and means of noise reduction/suppression.

Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.

Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.

Designation, layout and design of construction access and egress points.

Details for the provision of directional signage (on and off site).

Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.

Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.

Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.

Routing agreements for construction traffic.

Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.

Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.

Management measures for the control of pest species as a result of demolition and/or construction works.

Detail of measures for liaison with the local community and procedures to deal with any complaints received.

The management strategy shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: To protect the residential amenity of existing and future residents from the development and public safety in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre commencement to ensure that the whole construction phase is undertaken in an acceptable way.

16. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development.

No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats.

Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges.

Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

Replacements will be subject to the same conditions.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Policy S1 of the City of Durham Neighbourhood Plan and Part 12 of the National Planning Policy Framework.

17. The development shall be carried out in accordance with the BNG Results and Biodiversity Management and Monitoring Plan dated 28/10/2022.

Reason: In the interests of ecology and ensuring no protected species are affected by the development in accordance with Policies 41 and 44 of the County Durham Plan and Policy S1 of the City of Durham Neighbourhood Plan and Part 15 of the National Planning Policy Framework.

18. Prior to the occupation of the new Hub Building the entrance gates to the site shall be removed, and, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order), no erection of gates shall take place without the grant of further specific planning permission from the Local Planning Authority.

Reason: In the interests of the amenity of the surrounding area in accordance of Policies 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

County Durham Plan 2020

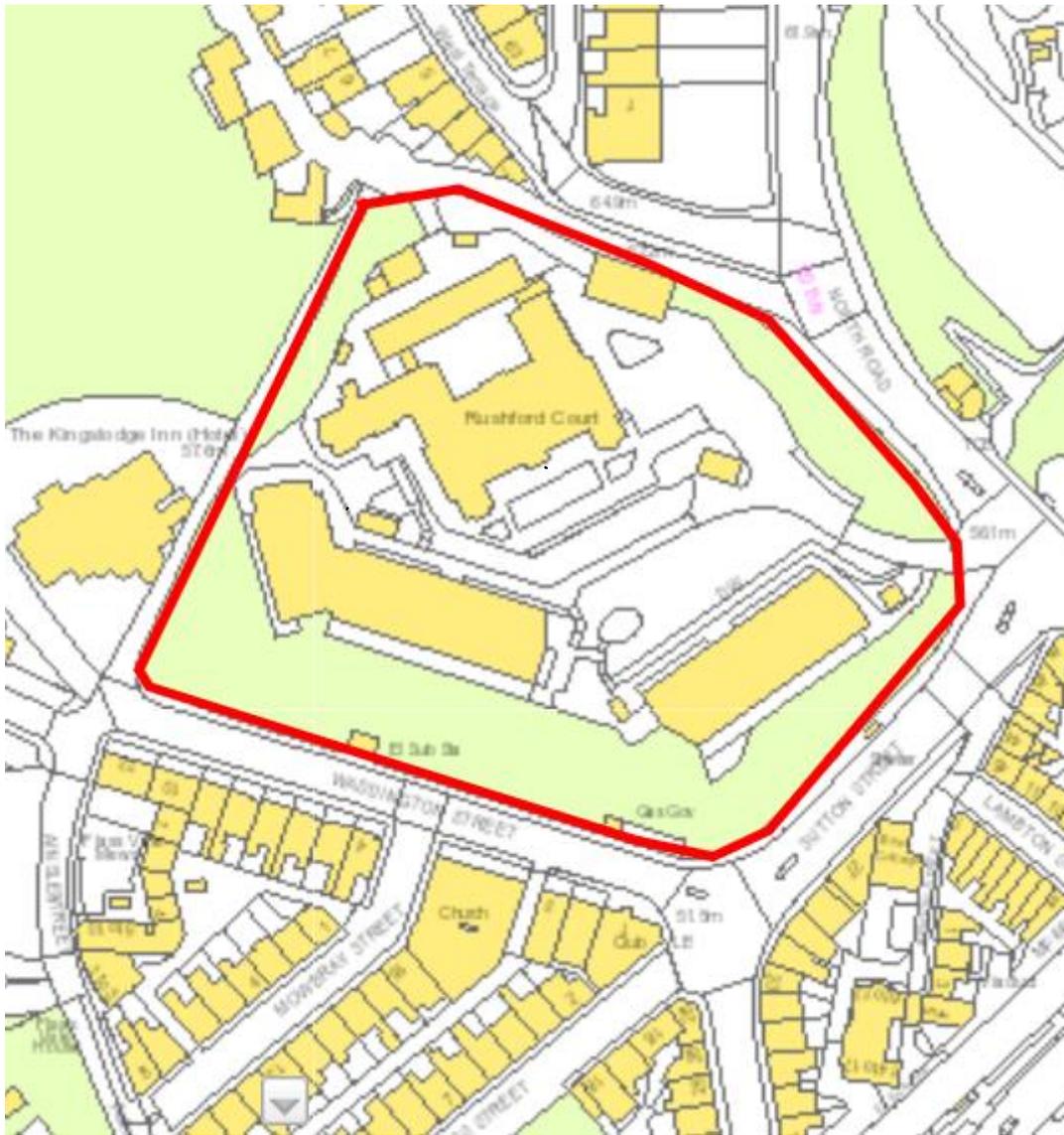
City of Durham Parish Council Durham City Neighbourhood Plan 2020 to 2035 (2021)

County Durham Parking and Accessibility Standards 2019

The National Planning Policy Framework (2021)

Internal and public consultation responses

Submitted forms, plans and supporting documents



Planning Services

DM/22/03247/FPA

Erection of new ancillary student accommodation facilities building built within grass embankment; minor external changes to existing Harding building including re-instatement of historical entrance location and implementation of associated landscaping scheme – Rushford Court, North Road, Durham, DH1 4RY

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Comments

Date 30.03.2023

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/22/00102/OUT
Full Application Description:	Outline planning consent (with all matters reserved save for access) for the erection of up to 18no. dwellings (amended description)
Name of Applicant:	Gary Hughes Developments
Address:	Land to the east of Eden House, High Hesleden, TS27 4QF
Electoral Division:	Blackhalls
Case Officer:	Leigh Dalby (Principal Planning Officer) Tel: 03000 261 959 Email: leigh.dalby@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site relates to G Cracknell Ltd. Transport Depot within High Hesleden. The site comprises largely of hardstanding with a number of large warehouse/industrial building. To the south of the site is agricultural fields, with woodland and open countryside beyond. The surroundings to the North, East and West are predominantly residential in character comprising of a mixture of different house types.
2. The village of High Hesleden is a small, predominantly linear rural settlement situated to the east of Hesleden and the southwest of Blackhall Colliery. It is close to the east coast of County Durham and within the 6km buffer zone of a European Designation. There are very limited facilities within the village, with the village scoring 4.1 for facilities and services within the County Durham Settlement Study 2018. This study provides a score-based methodology based on the services and facilities available within the 230

settlements within County Durham and is a useful tool when assessing the sustainability of a settlement.

3. There are bus stops within walking distance of the site where a single hourly bus service operates between 0700 – 2000 linking the village to the main local conurbation of Peterlee. In addition, the site lies relatively close to Hesleden and Blackhall which contain some community facilities such as schools, shops and health care facilities.
4. The site is accessed off the Filpoke Lane which is an unclassified road leading between the settlements of High Hesleden and Crimdon through the proposed re-alignment and formation of a new site entrance.

The Proposal

5. The proposal seeks outline planning consent with all matter reserved (except access) for the erection of upto 18no. dwellings.
6. The application has been brought to the Planning Committee for consideration in accordance with the Council's scheme of delegation due this being a major development.

PLANNING HISTORY

7. The following application are considered relevant to the site history for this application:
 - 5/PL/2012/0437 - Residential development (outline) 9 dwellings (resubmission). Approved. 27.02.2013

PLANNING POLICY

NATIONAL POLICY

8. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social, and environmental, each mutually dependent.
9. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'. The following elements of the NPPF are considered relevant to this proposal;
10. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable

development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.

11. NPPF Part 4 Decision-Making - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
12. NPPF Part 5 - Delivering a Sufficient Supply of Homes - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
13. NPPF Part 6 – Building a strong, competitive economy. The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
14. NPPF Part 8 - Promoting Healthy and Safe Communities - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
15. NPPF Part 9 - Promoting Sustainable Transport - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
16. NPPF Part 11 - Making Effective Use of Land - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land.
17. NPPF Part 12 - Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

18. NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
19. NPPF Part 15 - Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

LOCAL PLAN POLICY:

20. The following policies within the County Durham Local Plan are considered relevant in terms of this proposal:
21. Policy 1 (Quantity of Development) outlines the levels of employment land and housing delivery considered to be required across the plan period.
22. Policy 6 (Development on Unallocated Sites) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
23. Policy 15 (Addressing Housing Need) establishes the requirements for developments to provide on-site affordable housing, the circumstances when off-site affordable housing would be acceptable, the tenure mix of affordable housing, the requirements of developments to meet the needs of older people and people with disabilities and the circumstances in which the specialist housing will be supported.
24. Policy 19 (Type and Mix of Housing) advises that on new housing developments the council will seek to secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations and the opportunity to facilitate self-build or custom build schemes.

25. Policy 21 (Delivering Sustainable Transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
26. Policy 25 (Developer Contributions) advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.
27. Policy 26 (Green Infrastructure) states that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
28. Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure) supports such proposals provided that it can be demonstrated that there will be no significant adverse impacts or that the benefits outweigh the negative effects; it is located at an existing site, where it is technically and operationally feasible and does not result in visual clutter. If at a new site then existing site must be explored and demonstrated as not feasible. Equipment must be sympathetically designed and camouflaged and must not result in visual clutter; and where applicable it proposal must not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation in the national interest.
29. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD and sets out 18 elements for development to be considered acceptable, including: positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period.

Provision for alterations and extensions to residential property to be sympathetic to existing building and character and appearance of area

Provision for signage, adverts, street furniture and public art to be appropriate and sympathetic to users and local setting and not detrimental to visual amenity or public highway safety

Provision for major developments to appropriately consider the public realm in terms of roads, paths, open spaces, landscaping, access and connectivity, natural surveillance, suitable private and communal amenity space that is well defined, defensible and designed to the needs of its users.

Provision for new major residential development to be assessed against Building for Life Supplementary Planning Document, to achieve reductions in CO2 emissions, to be built to at least 30 dwellings per hectare subject to exceptions. All new development to achieve BREEAM minimum rating of 'very good'.

30. Policy 31 (Amenity and Pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for locating of sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
31. Policy 32 (Despoiled, Degraded, Derelict, Contaminated and Unstable Land) requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
32. Policy 33 – Renewable and Low Carbon Energy – states that renewable and low carbon development energy development in appropriate locations will be supported. In determining planning applications for such projects significant weight will be given to the achievement of wider social, environmental and economic benefits. Proposals should include details of associated developments including access roads, transmission lines, pylons and other ancillary buildings. Where relevant, planning applications will also need to include a satisfactory scheme to restore the site to a quality of at least its original condition once operations have ceased. Where necessary, this will be secured by bond, legal agreement or condition.
33. Policy 35 (Water Management) requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water

34. Policy 36 Disposal of Foul Water states that all new development should adopt the hierarchy of preference.
35. Policy 39 (Landscape) states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.
36. Policy 40 (Trees, Woodlands and Hedges) states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
37. Policy 41 (Biodiversity and Geodiversity) restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The retention and enhancement of existing biodiversity assets and features is required as are biodiversity net gains. Proposals must protect geological features, have regard to Geodiversity Action Plans and the Durham Geodiversity Audit and where appropriate promote public access, appreciation and interpretation of geodiversity.

Development proposals where the primary objective is to conserve or enhance biodiversity or geodiversity will be permitted if they comply with other local plan policy. Development proposals which are likely to result in the loss or deterioration of irreplaceable habitats will not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy exists.

38. Policy 42 Internationally Designated Sites states that development will be refused where it cannot be ascertained, following appropriate assessment, that there would be no adverse effects on the integrity of the site, unless the proposal is able to pass the further statutory test of 'no alternatives' and 'imperative reasons for overriding public interest'.
39. Policy 56 (Safeguarding Mineral Resources) states that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within a Mineral Safeguarding Area. This is unless it can be demonstrated that the mineral in the location concerned is no longer of any current or potential value, provision can be made for the mineral to be extracted satisfactorily prior to the non-minerals development taking place without unacceptable adverse impact, the non-minerals development is of a temporary nature that does not inhibit extraction or there is an overriding need for the non-minerals development which outweighs the need to safeguard the mineral or it constitutes exempt development as set out in the Plan. Unless the proposal is

exempt development or temporary in nature, all planning applications for non-mineral development within a Mineral Safeguarding Area must be accompanied by a Mineral Assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development.

40. There is no relevant neighbourhood plan within this area.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY AND INTERNAL RESPONSES:

41. The following comments were received following consultation with Statutory and Internal consultees.
42. Highway Authority – The previously approved Planning Application 5/PL/2012/0437 included a realignment of the Fillpoke Lane / Mickle Hill Road junction. The current proposal reflects the previously approved layout. The current drawing has provided the requested visibility splay and indicated the position of the additional street lighting column.

The developer will be required to commission DCC Traffic Assets to progress a Traffic Regulation Order to relocate the speed limit. The developer should not that this is a lengthy legal process and can take between 6 and 12 months to complete.

In addition, I would request a Condition that the realigned junction is completed before first occupation to ensure the safety of the site users. It will require a Highways Act Section 278 Agreement.

In my previous comments I highlighted that new estates are subject to 20mph speed limits and this also requires a Traffic Regulation Order to be progressed as above.

Based on and subject to the above I would offer no objection to the proposed access arrangements from a highways perspective.

43. Lead Local Flood Authority (LLFA) – We advise the principles as set out in the Flood Risk Assessment and Drainage Strategy Report are acceptable. However, we have reservations about the practicality of a drainage connection to the Public Sewer as proposed and shown on the Proposed Drainage Strategy Plan. The topographical survey indicates the site falls approximately 5 metres to towards the southeast, which is the opposite direction of the drainage connection. We therefore suggest an engineering plan is provided identifying the proposed levels of the site, and a drainage layout identifying cover and invert levels of on-site drainage and the same for the outfall chamber. This is necessary to confirm the site can be drained effectively.

44. Environmental Health (Noise Action Team) – No objections subject to conditions
45. Environmental Health (Contaminated Land) – No objection subject to conditions
46. Landscape Section – The site is currently well screened from the village and Fillpoke Lane by existing hedge and tree planting. Fillpoke Lane is slightly sunken in relation to the site. The key visual receptors would be users of Fillpoke lane. There is some visibility travelling west, towards the site, on Fillpoke Lane which will be increased in winter months.
47. It is likely that the impacts of the proposed development on landscape character of the lane will be considerable and negative.
48. Any development on site should retain tree cover, minimise effects on the enclosed nature of Fillpoke Lane. The proposals would cause harm to the local and it is unlikely that this could be reduced other than through substantial design changes.
49. Tree Section - The site comprises a large number of trees as well as four groups and hedges. A tree survey and a proposed site plan have been provided, however an Arboricultural Impact Assessment (AIA) as per section 5.4 of BS5837:2012 Trees in relation to Design, Demolition and Construction has not, therefore it is difficult to assess the impact the proposals will have on the existing trees.

It will be necessary to provide an AIA which should include all trees to be retained/removed on the plan as well as any locations of conflict and methods to mitigate them.

All plans should show individual trees/groups clearly identified in relation to proposed dwellings, paths, roads.

50. Ecology Section – Ecological appraisal sufficient and no further survey required however no biodiversity net gain calculation is provided other than the baseline score of 28.06 units. Need BNG assessment and management and monitoring plan.

Plans should also show ecological enhancements for swallow- location and type of enhancement to be provided

Site is within 6k HRA buffer therefore CAMMs contribution is required at £756.61 per new unit secured via S106 Agreement.

51. Education Authority – Based on the projected rolls of the schools, taking into account the likely implementation of the development, build out rates and other relevant committed development it is anticipated that there will be sufficient space to accommodate the pupils generated by the development in primary and secondary schools and no further mitigation is required in this instance.
52. Archaeology Section – No objection subject to conditions.

53. Northumbrian Water – No objection subject to conditions

54. Monk Hesleden Parish Council provided the following comments:

Policy 6 – Development on Unallocated Sites “will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity”

The Parish Council feels the development would be contrary to the Policy 6 (e) of the Durham County Plan (DCP). The proposed access/egress for the site is onto Filpoke Lane which in the view of the Parish Council, is a safety risk to both pedestrians and vehicles. Filpoke Lane was not designed to cope with the current levels of traffic, it is used by many as a quicker route to the A1086 Coast Road and has no public footpath. High Hesleden residents have raised concerns over many years in relation to speeding traffic which resulted in the installation of chicanes, this issue is still ongoing. The road network leaving the village towards the A19 was not designed for the capacity that it is already experiencing from vehicles and the heavy traffic created due to the reclamation of the former pit heap in Hesleden

Policy 29 – Sustainable Design “the case of edge of settlement development, provide for an appropriate level of structural landscaping to screen or assimilate the development into its surroundings and provide an attractive new settlement boundary” The Parish Council would highlight Policy 29 (l) of the DCP, it is our opinion that there is insufficient landscaping, which would impact upon the visual landscape, particularly on the Filpoke Lane boundary.

Policy 39 Landscape - Proposals will be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects. The Parish Council is of the view the application does not put in place sufficient measures.

National Planning Policy Framework 110 (b) “safe and suitable access to the site can be achieved for all users;” Members are of the opinion this application does not meet this requirement

Monk Hesleden Parish Council objects to this application on the material planning considerations set out in this document.

NON-STATUTORY RESPONSES

55. The following comments were received following consultation with non-statutory consultees:

56. NHS – Financial contribution of £10,143.00 required towards additional space to meet requirements

PUBLIC RESPONSES

57. The application has been publicised by way of site notice, press advert and notification letters sent to neighbouring properties. In response 3no. letters of objection were received; a summary of the points of objection are as follows:

Objection

- Increase in the number of dwellings in the settlement would greatly affect the character of the settlement.
- Increase in dwelling will impact the roads within the village and impact the highway safety of the village
- Proposed access is a highway safety issue
- Impact on the character of the settlement due to incursion into the Countryside.
- Impact on residential amenity due to increased noise and light emissions from the new dwellings.
- Surface water drainage
- No streetlights and poor footpath networks
- Lack of school and doctors provision

APPLICANTS STATEMENT:

58. None submitted.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

59. The main planning considerations of this application are the compliance of the proposal with national and local planning policy, (the principle of housing development, sustainability of the site, planning obligations, viability), impact on highway and pedestrian safety, impact upon the visual amenity of the area, landscaping, impact on the amenity and privacy of existing and future neighbouring land users, ecology and nature conservation, flooding and drainage and any other material planning considerations.

PRINCIPAL OF DEVELOPMENT

60. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In this respect the development plan for the area consists of the policies contained with the adopted County Durham Plan (2020)

61. Policy 6 of the County Durham Plan supports development on sites which are not allocated in the Plan, but which are either within the built-up area or outside the built up area but well related to a settlement, stating that such development will be permitted provided it is compatible with uses on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design

etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.

62. As detailed above policy 6 of the CDP permits development on unallocated sites provided it meets the criteria set out within the policy. In this regard it is considered that the proposal can draw in principle support from this policy given that it is within the built up area, that the site is located within close proximity to compatible residential uses and would not be prejudicial to any existing or permitted adjacent uses (criteria a), it is within the existing built framework of High Hesleden and as such would not lead to coalescence with neighbouring settlements (criteria b), would not result in a loss of open land that has any recreational, ecological or heritage value (criteria c), would not result in the loss of a valued village facility (criteria g) and would make use of previously developed land (criteria l). Consideration of criteria e and f of policy 6 are considered elsewhere within this report. It is not considered that criteria d, h and j are relevant due to the outline nature of the proposal.
63. It is therefore considered that the principle of residential use in this location is acceptable subject to the relevant material considerations as set out below.
64. It is noted that the site previously had outline consent granted in 2013 for the erection of 9no. dwellings; however, this has since lapsed.

SUSTAINABLE DEVELOPMENT

65. The overriding objective of planning is to contribute to the achievement of sustainable development; this objective is echoed in the NPPF particularly as the presumption in favour of sustainable development is the golden thread running through the NPPF. In applying the presumption and in viewing the Government agenda to build more homes due regard must be had to the requirement to provide homes that meet the needs of the community and that are in the right location.
66. Considerable weight should be given to the fact that the authority can now demonstrate in excess of a five-year housing land supply but that does not override the requirement that is set out with the National Planning Policy Framework to ensure that development is sustainable. The NPPF paragraph 8 sets out the three dimensions that form sustainable development, namely, economic, environmental and social. The three roles are mutually dependent and should not be taken in isolation.
67. Critically, paragraph 11 of the NPPF states that, for decision-takers, applying the presumption in favour of sustainable development means approving development proposals that accord with an up-to-date development plan without delay. Whilst Paragraph 12 of the NPPF on the other hand stipulates that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Local Planning Authorities may take decisions that

depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

68. The proposed development is located within a relatively central location within the village with the site extending South towards the agricultural fields. The site has easy access to a limited sustainable transport link via a single bus service to Peterlee which also serves surrounding villages. High Hesleden itself has limited facilities such as shops, pubs and community facilities, with the single pub in the village having closed during Covid-19 and has since failed to reopen. Whilst there are facilities in the nearby neighbouring villages these are accessible only by private vehicle. It is therefore considered that the site is an unsustainable location in line with section 2 of the NPPF and the aspirations of paragraph 79 of the NPPF in supporting the vitality and viability of existing communities.
69. This view is supported by a relatively recent 2018 Planning Appeal decision (Ref. APP/X1355/W/18/3211244) for 3no. dwellings within High Hesleden which forms part of this application site. In that decision the Planning Inspector noted amongst other matters *“The appeal site has convenient access to bus stops which are served by bus routes providing access to nearby villages as well as larger settlements. However, the evidence suggests that these bus services are relatively infrequent, and I do not consider that these bus services would provide a significant alternative to a reliance on the private car due to the frequency of the bus service and the relative convenience of these modes of transport”* The Inspector concluded on this matter stating *“I have concluded that the proposal would not be in a sustainable location with regard to access to services and employment. The proposal would therefore conflict with the policies of the Framework in respect of managing patterns of growth to promote sustainable transport and I give this conflict substantial weight”*
70. In light of the above it is considered that the location of the site is unsustainable given the reliance on private motor vehicles to access day to day shops and services, contrary to Policy 6 and 21 of the County Durham Plan and Section 2 of the NPPF and on that basis the application should be refused unless other material considerations indicate otherwise which is considered further below.
71. As noted the location of the site is considered an unsustainable location. However, it is noted that the current historic lawful use of the site is as a haulage business, it was noted at the time of the officer site visit that there were a number of heavy good vehicles on the site and accessing the site. It is considered that the present use as an HGV Haulage business within such close proximity to the nearby residential dwellings is an unneighbourly use and something that good planning would seek to avoid due to the potential impact on the residential amenities of the nearby residents. It is also an unsustainable location for the business with vehicle movements from both employees and haulage in a rural location. In this regard it is considered that the removal of this unneighbourly use, with a residential one which is a more compatible with the other uses in the village is a material consideration in the determination of this application along with the replacement of one unsustainable use with another will carry weight in the planning balance.

72. Policy 15 additional requires that all housing developments provide a minimum of 66% of the units to be Building Regulation M4(2) compliant and 10% suitable for older persons. In this regard as the application is all matters reserved these matters are not known at this time, however, this element can be secured by planning condition.
73. Policy 19 of the County Durham Plan requires that developments secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations and the opportunity to facilitate self-build or custom build schemes. In this regard the development would provide the opportunity for a mix of dwelling types potentially including bungalows. It is therefore considered that the mix of dwellings within a self-build development is acceptable and in accordance with the provision of Policy 19.

Principle of development summary

74. In consideration of the above, whilst the application site and the settlement are considered to be an unsustainable contrary to Policy 6 of the County Durham Plan and Section 9 of the NPPF. The proposal would be well related to the surrounding residential uses and would remove the present unneighbourly use, as such it is considered that on balance the that the removal of the unneighbourly use and the redevelopment of the existing unsustainable haulage use are a material planning consideration that in this instance is considered sufficient to outweigh the policy conflict with Policy 6, it is also noted that a similarly sized development within the settlement has recently been minded to approved by elected members.

Impact on the character and appearance of the streetscene

75. Policy 29 (Sustainable Design) of the County Durham Plan requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals.
76. The application seeks outline planning permission with all matters reserved except access and as such some of the detail provided is indicative. However, a number of comments have been made in relation to its impact on the character and appearance of the area, especially when view from the South. However, given that this is an outline application, landscaping mitigation and screening can be achieved at reserved matters stage along with its architectural design cues and layout from the rural character of the area. Whilst it is acknowledged that the development will project further South than the current building line of the settlement, this is weighed in balance against the removal of an unneighbourly use.

77. It is therefore considered on balance that given the loss of the unneighbourly use from the site and that the character and appearance of the settlement can be suitably designed, and potential detrimental impacts mitigated to not have a sufficiently detrimental impact on the character of the village to warrant refusal, and that the proposal is acceptable in line with policy 29 of the County Durham Plan.

Landscaping

78. Policy 39 (Landscape) of the CDP states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.
79. The Council's Landscape Section have considered the application and confirmed that the development would have a detrimental impact on the character of the landscape when viewed from Filpoke Land, and that a buffer to the land is required within any final designed layout that is proposed as part of the reserved matters application. As such it is considered that the development would be acceptable in accordance with Policy 39 of the County Durham Plan and paragraph 130 of the NPPF subject to appropriate consideration at the reserved matters stage.

Planning Obligations

80. CDP policy 25 relates to planning obligations and set out requirements for new development to contribute towards the provision and or improvement of physical, social and environmental infrastructure depending on the nature and local/strategic needs. In this in accordance with Policy 25 (Planning Obligations), Policy 15 (affordable housing) and Policy 26 (Green Infrastructure) the development will need to provide certain contributions.
81. Policy 15 requires that a development of this nature will be necessary to provide a contribution towards affordable housing. As this site is within a low viability area, 10% of affordable homes would ordinarily be required. NPPF paragraph 64c recognises that the specific requirement for 10% affordable home ownership does not apply on self-build sites, however, affordable provision is still applicable to such schemes in line with para 63 of the NPPF which states that where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site unless: a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and b) the agreed approach contributes to the objective of creating mixed and balanced communities.
82. However, given the site is outline the contribution necessary could not be calculated until the precise details of the scheme are available to the Council's Affordable Housing Team are known at reserved matters stage based on the

number, type and size of units to be delivered and their value and would be secured via a s106 agreement.

Open space / Green Infrastructure

83. Paragraph 98 of the NPPF states that access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities and that planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. The Council prepared its Open Space Needs Assessment (OSNA) in 2018 as part of the preparation of the County Durham Plan and as such it is considered that this is the most up to date assessment of need for the purposes of Paragraph 98 of the NPPF.
84. Policy 26 (Green Infrastructure) states that development will be expected to maintain, protect, and where appropriate, improve the County's green infrastructure network. In accordance with Policy 26 and having regards to the Councils Open Space Needs Assessment (OSNA) it is considered that the development is required to provide offsite contributions towards open space provision which would equate to **£29,880.90** towards enhancement, maintenance or provision within the vicinity of the development
85. Policy 25 requires new development to mitigate any matters necessary to make the development acceptable through either planning conditions or planning obligations.

Education provision

86. Paragraph 95 of the NPPF confirms that the government places great importance to ensure that sufficient choice of school places is available to meet the needs of existing and new communities and requires LPAs to proactively meet the requirement. The Councils Education team have confirmed that there is sufficient existing educational provision within the area to the extent no contributions are necessary.

Health Contributions

87. Paragraph 34 of the NPPF required Local Authorities to have regard to setting where contributions are necessary within the Local Plan. In this regard Policy 29(f) of the CDP requires that developments should contribute to healthy neighbourhood and consider the health impacts and needs of the existing and future users. The local NHS Clinical Commissioning Group (CCG) have confirmed that a contribution of £10,143.00 is necessary to provide sufficient local health service facilities to accommodate future residents of the development.

Developer contribution conclusion

88. As detailed above it is considered that the proposal is in accordance with Policy 25 and 26 of the CDP to mitigate the impact on the development subject to the completion of a s106 agreement to secure the obligations.

Impact upon Residential Amenity

89. Policy 29 (Sustainable Design) of the CDP requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period. Provision for major developments to appropriately consider the public realm in terms of roads, paths, open spaces, landscaping, access and connectivity, natural surveillance, suitable private and communal amenity space that is well defined, defensible and designed to the needs of its users.
90. In addition to the above policies within the CDP, the Local Authority has adopted a residential design SPD which sets out the Councils expectation in relation to privacy distances and private outdoor amenity space (Gardens). In this regard the development would need to achieve a minimum of 21.0m between two storey buildings and 18.0m between bungalows and provide rear garden lengths of at least 9.0m.
91. The above policies and SPD are in broad accordance with paragraph 130 of the NPPF which requires that planning decisions should ensure that developments will create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
92. It is acknowledged that given that the application seeks outline planning permission with all matters reserved (except access), it is not appropriate to assess the proposal against these considerations at this stage and that will be for considerations at the reserved matters stage to ensure the residential amenity of existing and proposed residents will be acceptable. However, sufficient information has been provided to assess the extent to which the site could accommodate the 18no. dwellings listed in the application description, taking into consideration the separation distances required by the SPD. These matters can be secured through conditions to ensure a satisfactory development in regards to the policy requirements of Policy 29 of the CDP.
93. Policy 29(n) of the CDP requires major new residential development to be assessed against the Building for Life (BfL) supplementary document. However, the supporting text for this policy provides the context as to when this element of policy 29 is applicable, in this regard para. 5.298 of the CDP states that the requirement for a BfL should be in line with the Building for Life SPD which states

that the BfL assessment is only applicable on scheme of 50 or more or sites of 1.5ha or more, or smaller scheme in sensitive locations. As this scheme is beneath 50 units, and not in a sensitive location the requirement for a BfL assessment is not necessary. However, the application was taken to the Council's design review panel and scored 2 Reds on the BfL scoring matrix in relation to the facilities and services of the village and the design and layout of the site. It is noted that the sustainability, services and facilities of the location, is considered in detail above, and the layout is a matter to be consider at reserved matters stage. However, notwithstanding the above, this is element of Policy 29 is not relevant in the consideration of this proposal.

94. Policy 27 of the County Durham Plan requires that all new residential development should be served by high-speed broadband connections. The UK Government defines superfast internet as speeds in excess 24mbps. It is noted that the website for Ofcom (regulator for the communications services) provides a detailed internet speed checking service for locations within England. In this regard they confirm that the settlement, and the adjacent dwelling are by Superfast internet connections of upto 75mbps. It is therefore considered that the site is capable of achieving the requirement of Policy 27, subject to an appropriate condition to secure this matter.
95. Crime, and fear of crime are material planning considerations. Paragraph 92(b) of the NPPF states that planning decision should aim to ensure that developments provide health, inclusive and safe places that are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. In this regard it is considered that, given that this is an outline application with the majority of matters reserved that these matters will be considered in detail at the reserved matters stage. However, given the proposed use as residential in a residential area it is considered that in principle the proposal has the ability to meets the test of Paragraph 92 of the NPPF and Policy 29(m) of the CDP.
96. Policy 31 (Amenity and Pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
97. The Council's Env. Health officer has accessed the development and concluded that the proposal has the potential to cause a nuisance in relation to disturbance during the construction phase for existing nearby residents. However, they have confirmed that subject to planning conditions the nuisances can be adequately mitigated. As such it is considered that the proposal is acceptable in relation to the impact on the surrounding residents subject to the requested conditions.

98. Therefore, it is considered that the proposal is acceptable in that there would not be any unacceptable impact upon residential amenity of future or existing residents in accordance with the aims of policies 29 and 31 of the County Durham Plan, the Residential Design SPD and Sections 8 and 12 of the NPPF, subject to appropriate conditions.

Sustainability and Energy Efficiency

99. Policy 29 of the County Durham Plan criteria c and d require that developments should seek to minimise greenhouse gas emission by seeking to achieve zero carbon buildings and provide renewable and low carbon energy generation and should minimise the use of non-renewable and unsustainable resources.
100. As this is a outline application, these matters will be considered at the reserved matters stage, as such it is considered appropriate to secure these requirement by way of a planning condition.
101. In light of the above it is considered that the proposal is acceptable in regard to the provision of Policy 29 c d and o, subject to a planning condition requiring a detailed scheme to be submitted and agreed by the LPA in this regard.

Highway and Pedestrian Safety

102. Policy 21 of the CDP requires that all development ensures that any vehicular traffic generated by new development can be safely accommodated and have regard to Parking and Accessibility Supplementary Planning Document
103. The Council's Highway Engineers have assessed the proposal and concluded that the proposed alterations to the road layout and the engineering arrangements of the access point are acceptable subject to a condition securing the works are complete prior to the first occupation of the dwellings. It is therefore considered on the proposal can achieve a safe means of access. The scheme is therefore acceptable in this regard.
104. Policy 21(a) also requires that all development delivers, accommodates and facilitates investment in safe sustainable modes of transport for people with mobility issues or disabilities, walking, cycling, bus and rail transport. In this regard and as detailed above, the site due to its location is primarily reliant on private motor vehicles to access facilities. However, it is considered that the removal of the transport and haulage use from the site will be a betterment to the good planning of the area, and the road networks, which outweighs this policy non-compliance.
105. In light of the above it is considered that the proposal is on balance acceptable in line with Policy 21 of the County Durham Plan, and Part 9 of the NPPF subject to the condition set out below, and securing the relevant Traffic Regulations Order from the Local Highway Authority.

Trees

106. Policy 40 (Trees, Woodlands and Hedges) of the CDP states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
107. The Council's Arborist has assessed the proposal and concluded that the scheme is acceptable in this regard.
108. Therefore, in light of the above it is considered that subject to an appropriate condition to ensure an appropriate landscape scheme is submitted as reserved matter stage the proposal is in compliance with Policy 40 of the CDP.

Ecology

109. Policy 41 (Biodiversity and Geodiversity) of the CDP restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. Development proposals where the primary objective is to conserve or enhance biodiversity or geodiversity will be permitted if they comply with other local plan policy. Development proposals which are likely to result in the loss or deterioration of irreplaceable habitats will not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy exists.
110. In relation to the above a County Ecologist has considered the proposal requested further information in terms of BNG calculations. However, given that the proposal is all matters reserved it would not be reasonable to require a full BNG calculation to be undertaken at this stage, but rather this information could be subject to appropriate condition or s106 agreement requiring the submission of BNG calculations and mitigation measures at reserved matters stage which could be managed through condition the development would deliver net biodiversity gain.
111. The application has been supported by a Ecological Impact Assessment which has considered amongst other matters the potential impact on European Protected Species on and near to the site. This report identified that there were either no protected species present, or in the case of birds, the loss of habitat would be mitigated at the reserved matters stage. This view was supported by the Council's Ecologist.
112. The application site is located within 6km of the Heritage Coast SAC which is designated as such for its ecology and biodiversity value. Specifically, the JNCC designation confirms that the Durham Coast is the only example of vegetated sea cliffs on magnesian limestone exposures in the UK. These cliffs extend along the North Sea coast for over 20 km from South Shields southwards to Blackhall Rocks. Their vegetation is unique in the British Isles and consists of a complex mosaic of paramaritime, mesotrophic and calcicolous grasslands, tall-herb fen, seepage flushes and wind-pruned scrub. Within these habitats rare species of

contrasting phytogeographic distributions often grow together forming unusual and species-rich communities of high scientific interest. The communities present on the sea cliffs are largely maintained by natural processes including exposure to sea spray, erosion and slippage of the soft magnesian limestone bedrock and overlying glacial drifts, as well as localised flushing by calcareous water.

113. The Council's adopted its Habitat Regulations Assessment: Developer Guidance and Requirements and as such this is a material consideration in determination of this application. It includes a requirement for the payment of commuted sum to mitigate the impact of the development upon increased visitors to the SAC. The Council's Ecologist has advised that the required figure in this instance (in lieu of on-site mitigation) would be **£13,618.98** for use towards schemes contained within the Coastal Access Management Measures.

Drainage

114. Policy 35 (Water Management) requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
115. Whilst Policy 36 (Water Infrastructure) advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and waste water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
116. The Council Drainage and Flooding section have assessed the scheme and concluded that whilst there is a submitted scheme due to the constraints of the site it is not possible to effectively implement the scheme and that further information is required. However, as this is an outline application with matter can be addressed at reserved matters state through appropriate conditions.
117. It is therefore considered that the scheme is acceptable in relation to Policy 35 and 36 of the CDP subject to appropriate planning conditions.

CONCLUSION

118. In summary, it is considered that the site whilst not being fully policy compliant due to the sustainability of the location with regards to access to shops, services, and employment as detailed in policy 6 and 21 of the CDP and paragraph 105 of the NPPF, particularly with respect to managing patterns of growth to promote sustainable transport. It is considered that the material consideration of the

removal of an unneighbourly commercial haulage and transport business from the village and close proximity to residential dwellings is sufficient in this instance to outweigh these policy considerations. The secession of the commercial haulage business can be secured by a s106 agreement upon commencement of this development.

119. It is therefore considered that the application on balance is acceptable in line with Policies 1, 6, 15, 16, 19, 21, 25, 26, 27, 29, 31, 32, 33, 35, 36, 39, 40, 41, 42 and 56 of the County Durham Plan and Parts 2, 4, 5, 6, 8, 9, 11, 12, 14 and 16 of the National Planning Policy Framework subject to the relevant conditions and contributions.

RECOMMENDATION

That the application be **APPROVED** subject to a s106 agreement to secure affordable housing (equivalent to 2no dwellings), £31,303.80 Green Infrastructure, £10,143.00 NHS contribution and £13,618.98 in Ecology HRA mitigation, the secession of the current planning use of the land and the following conditions:

1. Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years beginning with the date of this permission. The development must be begun not later than the expiration of two years from the final approval of the reserved matters.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Approval of the details of layout, scale, appearance and landscaping (hereinafter called "the reserved matters") shall be obtained in writing from the Local planning authority before any development is commenced.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 - Approved Plans.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 1, 6, 15, 16, 19, 21, 25, 26, 27, 29, 31, 32, 33, 35, 36, 39, 40, 41, 42 and 56 of the County Durham Plan and Parts 2, 4, 5, 6, 8, 9, 11, 12, 14 and 16 of the National Planning Policy Framework.

4. The development hereby approved shall comprise no more than 18no. dwellings (C3 use class) with each not exceeding a maximum 2 storey scale.

Reason: To define the consent in the interests of proper planning.

5. No development other than site clearance or remediation works shall commence until a scheme to detail how at least 66% of the total number of units approved comply with Building Regulations M4(2) Accessible and Adaptable Dwellings shall be submitted for approval alongside an application for reserved matters for the scheme. The development shall thereafter be carried out in accordance with the approved details.

Reason: In order to address housing need requirements in accordance with Policy 15 of the County Durham Plan.

6. A scheme detailing how at least 10% of the total number of units approved will be constructed to a design and type which meet the needs of older people, shall be submitted for approval alongside an application for reserved matters for the scheme. Thereafter the development shall be carried out fully in accordance with the approved details.

Reason: To meet the housing needs of older people and people with disabilities in accordance with Policy 15 of the County Durham Plan and Part 5 of the NPPF. Required to be pre-commencement to ensure that an acceptable scheme can be agreed and incorporated into the development before site works commence

7. No part of the development shall be occupied until the vehicular and pedestrian access and approved realignment and junction improvement of Filpoke Lane and Mickle Hill Road connecting the proposed development to the public highway has been constructed to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway and pedestrian safety and in the interests of the visual amenity of the surrounding area in accordance with Policies 21 and 29 of the CDP

8. No development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 1 preliminary risk assessment (desk top study).

If the Phase 1 assessment identifies that further investigation is required a Phase 2 site investigation shall be carried out, which shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.

Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

9. Remediation works shall be carried out in accordance with the approved remediation strategy. The development shall not be brought into use until such time a Phase 4 Verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

10. No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1400 on Saturday. No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday. No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays. For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: In the interests of the privacy/amenities of neighbouring occupiers and to comply with Policy 31 of the County Durham Plan.

11. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:

1. A Dust Action Plan including measures to control the emission of dust and dirt during construction.
2. Details of methods and means of noise reduction/suppression.
3. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
4. Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
5. Designation, layout and design of construction access and egress points.
6. Details for the provision of directional signage (on and off site).
7. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.

8. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
9. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
10. Routing agreements for construction traffic.
11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
12. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
13. Management measures for the control of pest species as a result of demolition and/or construction works.
14. Detail of measures for liaison with the local community and procedures to deal with any complaints received.

The management strategy shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre commencement to ensure that the whole construction phase is undertaken in an acceptable way.

12. The reserved matters application shall be supported by an Arboricultural Impact Assessment and an Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority. This shall include a scheme to identify which trees and hedges are to be removed and retained, and for the protection during construction works of all identified trees, hedges and any other planting to be retained on and adjacent to the site including the Ancient Woodland, in accordance with BS 5837:2012 'Trees in relation to design, demolition and construction - Recommendations'. The scheme shall include details of the Root Protection Area with such areas demarcated and fenced off to ensure total safeguarding.

The scheme and any Reserved Matters application(s) shall thereafter be carried out in accordance with the approved details and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, unless a variation to the scheme is agreed in writing with the Local Planning Authority. Nothing shall be stored or placed in any area

fenced in accordance with this condition. Nor shall the ground levels within these areas be altered or any excavation be undertaken without the prior written approval of the Local Planning Authority. Any trees which are seriously damaged or die as a result of site works shall be replaced with trees of such size and species as may be specified in writing by the Local Planning Authority in the next available planting season.

Reason: In the interests of the adequately protection for the trees on site in accordance with Policy 40 of the CDP.

13. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development.

No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats.

Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges.

Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

Replacements will be subject to the same conditions.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

14. No development other than ground clearance or remediation works shall commence until a scheme for the provision of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be developed in accordance with the Councils Sustainable Drainage Systems (SuDS) Adoption Guide 2016. The development thereafter shall be completed in accordance with the details and timetable agreed.

Reason: To ensure that surface and foul water are adequately disposed of, in accordance with Policies 35 and 36 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework.

15. No development shall commence until detailed drawings, including sections, showing the existing and proposed site levels, and the finished floor levels of the proposed development and those of existing neighbouring buildings (if any), has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details thereafter.

Reason: In the interests of the amenity of the surrounding areas and neighbouring properties, in accordance with Policy 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework. Required as a pre-commencement condition to ensure that the implications of changes in level are properly considered and accounted for in the development.

16. Prior to the first occupation the development hereby approved, details of all means of enclosure of the site shall be submitted to and approved in writing by the Local Planning Authority. The enclosures shall be constructed in accordance with the approved details thereafter.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

17. No development shall commence above damp proof course of any of the dwellings until such time as a scheme detailing the precise means of broadband connection to the site has been submitted to and agreed in writing by the local planning. Thereafter, the development shall be carried out in accordance with the agreed detail.

Reason: To ensure a high quality of development is achieved and to comply with the requirements of policy 27 of the County Durham Plan.

18. Development shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority. Thereafter the development shall take place in accordance with the approved details.

REASON: To prevent the increased risk of flooding from any sources in accordance with the NPPF.

19. Prior to the first occupation of any dwelling hereby permitted details of 1no. electric vehicle charging point and location per dwelling shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the approved details and retained in perpetuity

Reason: To ensure a satisfactory form of development in accordance with Policy 21 of the County Durham Plan and Section 9 of the NPPF.

20. The reserved matters application shall be supported by a detailed scheme to minimise greenhouse gas emissions, with the aim of achieving as close as possible a zero carbon buildings. The scheme shall include, but not be limited to, provision of renewable and low carbon energy generation. The agreed renewable and low carbon energy measures shall thereafter be installed in accordance with the approved details thereafter.

Reason: To comply with requirements to minimise greenhouse gas emissions in line with details set out in policy 29c) of the CDP

21. A scheme detailing ecological mitigation shall be submitted at the reserved matters stage and shall include Biodiversity Net gain calculations and details of establishing biodiversity habitat on-site, and shall be completed in accordance with a timescale to be agreed, and maintained in perpetuity in accordance with an agreed maintenance programme.

Reason: To ensure retained habitat is protected and to conserve protected species in accordance with Policy 41 of the County Durham Plan and Part 11 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF

BACKGROUND PAPERS

Submitted application form, plans supporting documents and subsequent information provided by the applicant.

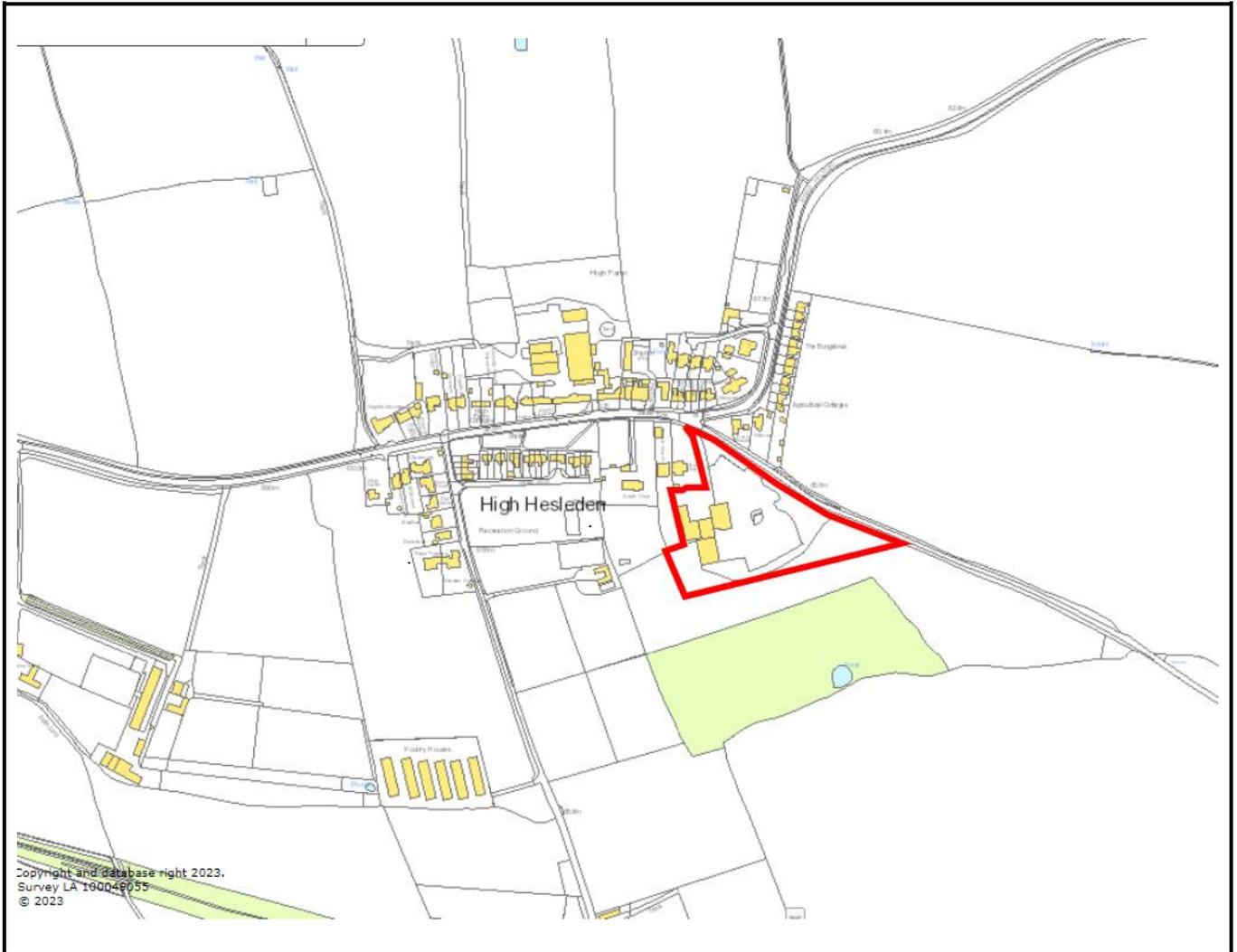
The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Residential Amenity Standards SPD (2023)

Statutory, internal and public consultation responses



<p>Planning Services</p>	<p>Outline planning consent (with all matters reserved save for access) for the erection of up to 18no. dwellings (amended description)</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p>Land To The East Of Eden House High Hesleden TS27 4QF</p>	
	<p>Date 14.03.2023</p>	<p>Scale NTS</p>

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/22/03823/FPA
FULL APPLICATION DESCRIPTION:	Change use of dwellinghouse (C3) to 7 bed large HMO (Sui Generis) including changing the use of the garage into a habitable room
NAME OF APPLICANT:	Ms Gabrielle Moore
ADDRESS:	3 St Monica Grove Crossgate Moor Durham DH1 4AS
ELECTORAL DIVISION:	Neville's Cross
CASE OFFICER:	Michelle Hurton Planning Officer Michelle.hurton@durham.gov.uk 03000 261398

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is a two-storey semi-detached property located within St Monica Grove, Crossgate Moor which is a residential housing estate set back towards the east from the A167. The majority of the houses within the estate have been subject to some means of extension previously.
2. The property has a single storey garage to the side which appears to have previously been subject to a first floor extension above and has a bay window arrangement to the ground floor principle elevation. The front lawn is enclosed with a low brick boundary wall with pillars and hedge, to the rear garden is enclosed by timber fencing.

The Proposal

3. The application seeks planning permission for the conversion of the property from a dwellinghouse (Use Class C3) to a large House in Multiple Occupancy (Use Class Sui Generis) to include the conversion of the garage into a habitable room.
4. The application is being reported to planning committee at the request of the Durham City Parish Council who consider the application raises issues relating to residential amenity, parking, cycle storage and highway safety which require consideration by the committee.

PLANNING HISTORY

5. None relevant to the current application although it is noted that the adjoining property at No. 1 St Monica Grove was recently subject to the grant of planning permission for a change of use from a Residential Dwellinghouse (Use Class C3) to a Small House in Multiple Occupancy (Use Class C4).

PLANNING POLICY

NATIONAL POLICY

National Planning Policy Framework

6. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
7. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
8. NPPF Part 4 Decision-Making - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
9. NPPF Part 5 Delivering a Sufficient Supply of Homes - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
10. NPPF Part 8 Promoting Healthy and Safe Communities - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
11. NPPF Part 9 Promoting Sustainable Transport - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
12. NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

13. NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
14. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
15. NPPF Part 16 Conserving and Enhancing the Historic Environment - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

<https://www.gov.uk/guidance/national-planning-policy-framework>

NATIONAL PLANNING PRACTICE GUIDANCE:

16. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; historic environment; design process and tools; determining a planning application; flood risk; healthy and safe communities; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; natural environment; neighbourhood planning; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions; and; water supply, wastewater and water quality.

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

The County Durham Plan

17. The following policies of the County Durham Plan (CDP) are considered relevant to this proposal:
18. Policy 6 (Development on Unallocated Sites) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change

implications; makes use of previously developed land and reflects priorities for urban regeneration.

19. Policy 16 (Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation) seeks to provides a means to consider student accommodation and proposals for houses in multiple occupation in ensure they create inclusive places in line with the objective of creating mixed and balanced communities.
20. Policy 21 (Delivering Sustainable Transport) Requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to the Parking and Accessibility Supplementary Planning Document and Strategic Cycling and Walking Deliver Plan.
21. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards
22. Policy 31 (Amenity and Pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
23. Policy 35 Water Management states that all new development should adopt the hierarchy of preference in relation to surface water disposal.
24. Policy 36 Disposal of Foul Water states that all new development should adopt the hierarchy of preference.
25. The Council's Residential Amenity Design Guide (SPD) which provides detailed guidance in relation to extensions and other works to dwellinghouses to ensure that these do not have an adverse impact upon the host dwelling, the character of the wider area and residential amenity.

<https://www.durham.gov.uk/media/34069/County-Durham-Plan-adopted-2020-/pdf/CountyDurhamPlanAdopted2020vDec2020.pdf?m=637424969331400000>

NEIGHBOURHOOD PLANNING POLICY

Durham City Neighbourhood Plan

26. The following policies of the Durham City Neighbourhood Plan (DCNP) are considered relevant to the determination of this application.
27. Policy S1 (Sustainable Development Requirements of all Development and Re-development Sites Including all New Building, Renovations and Extensions) seeks to sets out the economic, social and environmental criteria that development proposals will be required to meet
28. Policy H3 (Our Neighbourhood Outside the Conservation Areas) requires development outside of Conservation areas to, where appropriate, demonstrate an understanding of the area of the proposed development and its relationship to the Neighbourhood area. Such development should sustain and make a positive contribution to the character and distinctiveness of the area and avoid the loss of open space and public realm that contributes to the area, to be appropriate in terms of scale, density, massing, form, layout, landscaping and open spaces and use appropriate materials and finishes.
29. Policy D4 (Building Housing to the Highest Standards) states all new housing, extensions and other alterations to existing housing should be of high-quality design relating to the character and appearance of the local area, aesthetic qualities, external and internal form and layout, functionality, adaptability, resilience and improvement of energy efficiency and the reduction of carbon dioxide emissions.
30. New residential development should meet the Building for Life 12 standards provided for in County Durham Building for Life Supplementary Planning Document (2019)
31. Policy T1 (Sustainable Transport Accessibility and Design) seeks to ensure that development proposals will be required to demonstrate best practice in respect of sustainable transport accessibility, impact and design
32. Policy T2 (Residential Car Parking) supports developments with or impacting on car parking provided that car parking is designed to reduce vehicle movements on residential streets and is in designated bays or small groups separated by landscaping or features and designed with safety in mind. Consideration should be given to communal off street parking for dwellings without garages. Any EV requirements should not hinder movement by pedestrians or disabled people and should be in keeping with area character. The policy supports the use of car clubs. Should the parking demand require parking controls these will need to be funded through developer contributions.
33. Policy T3 (Residential Storage for Cycles and Mobility Aids) requires residential development including change of use to seek to provide storage facilities for cycles and, where appropriate mobility aids. Cycle parking should meet DCC standards and should be adaptable for other types of storage with access to electricity. Where there is communal storage and a travel plan this should be managed appropriately in terms of removal and capacity needs. Design and location of storage should accord with the style and context of the development

<https://www.durham.gov.uk/media/36020/Durham-City-adopted-neighbourhood-plan/pdf/DurhamCityNeighbourhoodPlan.pdf?m=637630042066500000>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

34. The Highway Authority raises no objection to the application and notes that the current DCC parking standards only consider parking requirements for properties of up to 5 bedrooms which would be a requirement of 2 off street spaces.
35. While this property would have 7 bedrooms, it is reasonable to assume that an uplift of an additional space would be required from the 5 bed standard of 2 spaces. The proposed plans demonstrate that 3 off-street parking spaces are available and so provides that uplift. The front of the property does have scope to be widened to make further off-street parking, although there is no policy basis to require that to be done through this application.
36. Durham City Parish Council objects to the application citing that one of the bedrooms fails to meet NDSS standards and minimum HMO licencing requirements, that the proposal fails to provide adequate parking (including lack of any provision in relation to an EV charging point) which would result in increased on street demand in an area which is highly trafficked as evidenced by local concern and objection.

INTERNAL CONSULTEE RESPONSES:

37. Environment, Health and Consumer Protection (Nuisance Action Team) raise no objection to the application subject to the inclusion of conditions relating to construction works, the proposed bedrooms being adequately insulated, a management plan being submitted and a condition limiting the number of occupants.
38. HMO Data have confirmed that the percentage of properties within the 100m radius of and including the application site that are exempt from Council Tax is 6.7%.
39. HMO Licensing have confirmed that the property will need to be licensed following completion of the works due to the property forming a 7-bedroom, 2 storey house in multiple occupation and that one of the bedrooms failed to meet minimum licencing requirements.

PUBLIC RESPONSES:

40. The application was advertised by way of site notice and neighbour notification letters were sent to nearby properties. Twenty-six letters of objection (including responses from the City of Durham Trust and the Neville's Cross Community Association Trustees) have been received in objection to the application. Reasons for objection are summarised as:
 - Impact upon existing residential amenity in that the proposal would adversely impact upon neighbouring properties from increased noise and disturbance, potential double occupancy in the bedrooms, one bedroom fails to meet minimum NDSS Standards. In addition, some licencing requirements have not been met in the relation to the kitchen/dining room.
 - Impact upon parking and highway safety, specifically that the site would increase traffic congestion on what is a well-used route into the city centre that has poor visibility and is used by children and parking and travelling to Durham Johnson. Existing issues in relation to congestion on this stretch of residential estate is cited along with photographic evidence of parked cars.

- Impact upon social cohesion in that the introduction of an additional HMO would imbalance the community to the extent that there would be an over proliferation of this type of accommodation in the locality forcing families out of residential areas within the city. In addition, occupation of the property by students would result in the property being empty for long periods and this would further erode the sense of community.
- The development would be contrary to Policy 16 in that the 10% threshold has been met as several other HMOs are present in the locality which are not reflected in the % figure of Class N Exempt properties. Concern is raised at the methodology used in policy 16 which they consider to be fatally flawed. In addition, respondents considered that there is no identified need for additional student housing in the area which already has PBSAs and HMOs and that St Monica Grove is a primary route into the city. Also raised as a concern is the presence of the previously approved HMO granted at the adjacent property and both developments should be considered as one proposal.
- The HMO data does not appear to capture properties that are occupied during university term time.
- Some of the bedrooms are of suitably size occupation by 2 persons which would lead to more than 7 persons living in the property which would have a greater impact in terms of noise/disturbance/access and parking.
- Adverse impact from increased volume of waste/recycling and that the site does not include sufficient space to accommodate refuse storage requirements for 7 persons and as such would increase nuisance and vermin.
- Loss of council tax income
- Concern at the extent to which the LPA carried out publicity of the application which respondents considered was unduly limited.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

APPLICANT'S STATEMENT:

41. I have requested change of use and change of layout for 3 St Monica's Grove DH1 4AS.

The house will be sound-boarded to reduce noise levels for people in the house and for neighbours.

Bedroom 4 will have the (original internal) wall moved to make the room 2.838 by 2.848 making it 8.08 sq metres, it also has storage space in the bulkhead of the stairs which will be made into a wardrobe in addition to the floor space.

I have asked to be allowed to use the house as an HMO. I am a responsible landlord living locally and rarely have problems from my tenants. Neighbours occasionally contact me, any problem is swiftly dealt with. I have full time employees who maintain my properties so my houses are at least as well kept as others in the street.

PLANNING CONSIDERATIONS AND ASSESSMENT

42. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In assessing the proposals against the requirements of the relevant planning guidance and development plan policies and having regard to all material planning considerations it is considered that the main planning issues in this instance relate to the principle of development, impact on the character and appearance of the area, impact on residential amenity and community balance/social cohesion, impact on highway safety and other matters.

Principle of the Development

43. The proposal relates to the change of use from a residential dwellinghouse (Use Class C3) to a 7-bed HMO (Use Class Sui Generis).
44. Policy 6 (Development on Unallocated Sites) of the County Durham Plan (CDP) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
45. In addition, Policy 16, Part 3 of the CDP is also relevant which relates to the conversion of houses for multiple occupation. The policy states that in order to promote, create and preserve inclusive, mixed and balanced communities and to protect residential amenity, applications for new build Houses in Multiple Occupation (both Use Class C4 and sui generis), extensions that result in specified or potential additional bedspaces and changes of use from any use to a House in Multiple Occupation in a sui generis use (more than six people sharing) will not be permitted if:
- a. including the proposed development, more than 10% of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N Student Exemption);
 - b. there are existing unimplemented permissions for Houses in Multiple Occupation within 100 metres of the application site, which in combination with the existing number of Class N Student exempt units would exceed 10% of the total properties within the 100 metres area; or
 - c. less than 10% of the total residential units within the 100 metres are exempt from council tax charges (Class N) but, the application site is in a residential area and on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus.
46. In addition to the above applications will only be permitted where:
- d. the quantity of cycle and car parking provided has regard to the council's adopted Parking and Accessibility Supplementary Planning Document (SPD);
 - e. they provide acceptable arrangements for bin storage and other shared facilities and consider other amenity issues;

- f. the design of the building or any extension would be appropriate in terms of the property itself and the character of the area; and
- g. the applicant has shown that the security of the building and its occupants has been considered, along with that of neighbouring local residents.

47. It is noted that objections have been received from neighbouring residents raising concern that the proposed change of use would result in the over proliferation of HMOs in the area where they feel the 10% has already been met, therefore unbalancing the community and that the applicant has not demonstrated any need for accommodation of this type in this location. It is noted that this was also raised in objection to a previous application relating to No. 1 St Monica Grove for change of use from C3 to C4. In addition, concerns have also been raised regarding how the HMO data is collected and the methodology used in Policy 16, Part 3 of the CDP. Specifically, the concern in this regard is that the use of Council Tax data alone is not a sufficiently accurate representation of all HMOs present within the area. Whilst the concern in relation to the use of Council Tax Exemption Data is noted it is the case that all properties registered as class N exempt within 100 metre radius of the property are captured within the data collection, and this information is gathered twice a year. The policy and the methodology contained within it was considered sufficiently accurate and robust during examination in public of the CDP in 2020, and the policy adopted as presently exists within the adopted CDP. The policy has proven sufficient robust in this regard and the Council has successfully defended several appeals against refusal of similar changes of use where these were in clear conflict with the policy.
48. The most recent up to date Council Tax information identifies that if planning permission was granted for the change of use of the dwellinghouse into a small HMO that within 100 metre radius of, and including 3 St Monica Grove, 6.7% of properties are class N exempt properties as defined by Council Tax records. There is however a previous planning permission relating to No. 1 St Monica Grove for the change of use from C3 to C4 and if implemented would increase the percentage of properties within 100m to 8.3%. As this concentration would be below the 10% threshold stated in the CDP. Whilst concern has been raised by residents that the street represents a primary access route between a PBSA and university campus this is not considered to be the case, and with that in mind the development can be considered to comply with policy 16, Part 3, criteria a), b) and c) and is acceptable in principle, subject to further consideration of the proposal against other criteria on Policy 16, Part 3 and the impact of the proposal upon residential amenity and highway safety.
49. It is noted that objections have been received citing that the application fails to demonstrate need for accommodation of this type in this location, and that there is a perceived surplus of student accommodation within the city as a whole. Whilst these points are noted there is recognition that market forces will, in the main, deliver the level of student accommodation required without resulting in a significant oversupply of accommodation, particularly in relation to HMOs which in most cases if not occupied as such, can be occupied again as family homes with limited internal reconfiguration. Notwithstanding this, it nevertheless remains that whilst Part 2 of policy 16 requires an application for PBSA to demonstrate need (along with a number of other requirements) this is not mirrored in Part 3 of the policy which relates to applications for changes of use to HMO and is the part of the policy which is relevant to the current application. For that reason, it is considered that the proposal would accord with the requirements set out in Part 3 of Policy 16 of the CDP and that the lack of any specific information within the application with regards to need, is not sufficient to sustain refusal of the application in this instance.
50. Paragraph 62 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning

policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes). Given that less than 10% of properties within 100m of the application property are Class N exempt and this would remain the case post development, should permission for the current change of use be granted the aims of Paragraph 62 would be met.

51. Objections have been received citing that the development would have an adverse impact upon social cohesion and unbalance the community. Paragraph 63 of the NPPF considers the need to create mixed and balanced communities and this is reflected in the requirements of Part 3 of policy 16 which includes a threshold of no more than 10% of properties being in HMO use and also reflected in the themes and aims of the Neighbourhood Plan. As already noted above, in light of the low level of Class N exempt properties within 100m radius of the site at present, it is not considered that this proposal would be contrary to the NPPF or CDP in this regard. Whilst it is noted that tenants would likely change on a yearly basis this is unlikely to have any adverse impact capable of sustaining refusal of the planning application.
52. As already noted concerns have been raised regarding St Monica Grove being a primary route into the city and whilst it may present a possible route into the city used by visitors, it is not considered a primary route between a PBSA and University building or Town Centre location for the purposes of criteria c of part 3 of policy 16 and as such there is not considered to be any conflict with this part of the policy.
53. Objections have been raised at the precise point at which the 100 metre radius is calculated variances in this would likely bring additional HMOs into the resulting percentage figure taking this beyond the 10% threshold contained in policy 16. For the purposes of assessing compliance with policy 16 the 100m distance is taken from the properties Basic Land and Property Unit (BPLU) point which is a unique address point given to each property. This methodology is reflected in policy 16 which was recently been subject to Examination in Public as part of the CDP and was considered sufficiently robust and as such is considered an appropriate method of assessing compliance with policy 16 of the CDP.

Impact on residential amenity

54. Paragraph 130 of the NPPF requires that planning decisions create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. Policy 31 (Amenity and Pollution) of the CDP displays broad accordance with the aims of paragraph 130 in this regard and sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
55. In this instance the application site is a semi-detached property located within a residential area and as such the nearest residential property adjoins the application site to the west, with further residential properties to all sides. As already noted, the

adjoining property does benefit from planning permission for a change of use to a small HMO. In nearly all cases those responding to the application in objection cite concerns around increase noise, disturbance and antisocial behaviour as a result of the development, and in some cases consider the development should be assessed as a single large student accommodation facility given the applicant is also the owner of No. 1 St Monica Crescent. In addition, concerns have been raised that insufficient space is available within the site to accommodate the amount of waste and recycling storage generated by 7 occupants, which they believe is likely to overspill into the wider curtilage and beyond. There is also a concern that the development would result in an increase in nuisance from pests and vermin as a consequence.

56. The Council's EHO has been consulted and confirmed that the development would fall within the thresholds associated with Council's TANS. They have noted that although the use is not a change of use to a more sensitive receptor, the source of noise could be greater from the HMO use than a single dwelling. This is due to the increase in household numbers and activity to and from the property. The demographic that use this type of accommodation are often associated with greater use of the night time economy and as such an increased level of night time noise may occur. However, it is anecdotal as the potential for impact is associated with the individuals residing there and as such might differ greatly.
57. The application site is located within a residential area predominantly characterised by small family homes. The impact of the development upon residential amenity is a material consideration in determination of this application. In most cases it is held that changes of use from C3 dwellinghouses to HMO use can be adequately mitigated to within acceptable levels subject to planning conditions. Where a HMO is proposed within a residential area with an existing high proliferation of HMO accommodation, the cumulative impact of an additional HMO in this context has been considered to have a detrimental impact upon residential amenity from increase in noise and disturbance sufficient to sustain refusal of planning permission. The LPA has refused a number of previous applications in this regard and proved successful in defending a subsequent planning appeals. However, in this instance it is noted that there is no identified over proliferation of existing HMOs within 100 metres of the application site, and as such it is not considered that the introduction of a single additional HMO in this location would result in a level of cumulative impact that would be detrimental to residential amenity.
58. The Council's EHO has requested that the applicant provides an effective plan detailing how the property would be managed, the submission, agreement and implementation of this can be secured through planning condition should planning permission be granted. Subject to the inclusion of a planning condition in this regard, the development is considered to accord with the requirements of policies 16 and 31 of the CDP.
59. The EHO also notes that two bedrooms will be on the ground floor and that one of these would be adjacent to a kitchen/dining area in the adjoining house which could lead to a greater impact for the individual residing in this bedroom, as well as leading to complaints against the reasonable use of the neighbouring ground floor.
60. Notwithstanding the above, the EHO noted that should the bedrooms be adequately insulated this would mitigate any adverse impact in terms of the transfer of noise. As such a condition could be attached to planning permission requiring a sound proofing scheme to be submitted to and agreed by the LPA and thereafter implemented prior to first occupation of the development and retained at all times whilst the HMO is in use as such.

61. Objections have been received from a neighbouring resident citing that the dwelling does not meeting minimum separation distances between facing elevations of adjacent properties. Whilst it is noted that the arrangement falls below minimum standards advised in the Council relevant SPD at approximately 15 metres, it should be noted that this is a pre-existing and well-established arrangement which concerns windows to existing habitable rooms. It is therefore not considered that the proposal would have any impact materially different to that which currently exist and the requirements of the SPD in terms of minimum separation distances cannot be retrospectively applied to existing arrangements. The development is not considered to have any unacceptable impact upon overbearing, overshadowing or loss of privacy as a result, in accordance with policy 31 of the CDP or the relevant SPD.
62. The property includes adequate external space to accommodate sufficient bin and cycle storage facilities within the garden area which extends to the east of the property. Whilst it would have been preferable to have precise details of the specification submitted for consideration of the application there is sufficient evidence to demonstrate suitable provision can be provided with the submission, agreement and installation of precise detail prior to first occupation secured via planning condition. In addition, noting the extent of the garden area contained within the curtilage it is considered there is sufficient external amenity space to serve the inhabitants and as in accordance with policy 16 of the CDP.
63. In relation to internal space the Nationally Described Space Standards (NDSS) is a government introduced nationally prescribed internal space standard which sets out detailed guidance on the minimum standard for all new homes and was created with the aim of improving space standards within new residential development across all tenures. Evidence compiled during formulation of the County Durham Plan identified that many new homes in the county were being built below NDSS and that this was having an impact on the quality of life of residents. As a result, Council determined that it was necessary to introduce the NDSS in County Durham with the aim of improving the quality of new build development coming forward.
64. It is noted that the current application relates to a change of use to a property already in residential use and as such would not result in any net increase in the number of residential units. Consequently, the rigid application of these standards is not considered appropriate to the current application. Nevertheless, it remains that the NDSS is a relevant measurement against which to assess the suitability of internal space provided within all residential development in the context of policy 29(e) of the CDP which requires new development to provide high standards of amenity and privacy.
65. The failure of the one of the bedrooms to the ground floor to meet minimum NDSS and Licencing space standards was raised in objection to the application. Consequently, the applicant has amended the scheme altering the internal layout and relocating an internal wall. This has increased the footprint of the bedroom in question from approximately 6.05sq metres to 7.8sq metres. As such this now complies with minimum NDSS and Licencing Requirements. All of the bedrooms now meet the minimum requirements of the NDSS being in excess of the required 7.5sq metres per room.
66. With regard to the total overall internal space provided across the dwelling as a whole it is noted that the NDSS does not provide guidance specifically relating to 7 bedspace, 7 person dwellings. However, it does include standards in relation to 6 bedspace 7 person dwellings and it is noted that this requires an overall area of no less than 123sq metres. As already noted, whilst the rigid application of NDSS is not considered appropriate for the reasons outlined above the proposed change of use would provide

adequate internal space delivering approximately 125sq metres of total internal floorspace.

67. Notwithstanding the above, it is noted that should one of the communal rooms not identified for use as a bedroom be converted to use as a bedroom upon completion of the development, this would unacceptably reduce the amount of communal space to below levels considered sufficient to cater for the number of occupants. As such, it is considered appropriate to include a planning condition limiting the total number of occupants to no more than 7.
68. Objection has been raised to the application noting that the footprint of the kitchen/diner would be approximately 14.5sq metres which is below the 19.5sq metres reflected in licencing requirements. Whilst below 19.5sq metres it is noted that when considered in conjunction with the lounge this would deliver an overall area of 42.8sq metres which would comply with licensing requirements relating to a combined living/dining/kitchen area (21sq metres). In any event such matters fall outside of the scope of planning control and as such cannot be afforded weight in determination of this application and NDSS requirements would be met in terms of internal space as noted above.
69. Concern has also been raised in relation to the ability of the kitchen/dining area to accommodate all of the storage and cooking equipment required to serve a 7 person HMO. However, upon assessment it is considered that the space in question is sufficient to provide the level of provision required in this regard and there is no objection from the Council's Licensing Section.
70. In light of the above proposal is considered to comply with policy 29(e) of the CDP in that it provides a suitable amount of internal and external amenity space to meet the needs of future occupiers and deliver a suitable quality of development in relation to policy 29(E) of the CDP policy 16 of the CDP and Paragraphs 130 and 174 of the NPPF.

Impact on the character and appearance of the area

71. Paragraph 124 of the NPPF advises that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, and that good design is a key aspect of sustainable development, creating better places in which to live and work. Policy 29 of the CDP requires development to contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
72. Neighbouring residents have raised objections to the proposed development stating that a HMO's will have a negative impact on the residential housing estate, HMOs are not adequately maintained and that students are short term occupiers with no stake in local community.
73. It is noted that limited external alter is proposed to facilitate the change of use comprising solely of the removal and replacement of the garage door with brickwork and windows in association with its conversion to a bedroom. This is considered acceptable in principle and similar to other works undertaken at properties in the locality subject to the inclusion of a planning condition which requires materials used to match the host property.
74. The character and appearance of the surrounding area incorporates two storey semi-detached properties. There is a variety of boundary treatments within the local vicinity

of the site and there is a difference in opening styles. With regard to concerns that the general appearance of the property would deteriorate as a consequence of the proposed use there is no evidence that this would occur and the applicant has reiterated that the property would be appropriately maintained.

75. It is therefore considered that the proposed development would fit with the character and appearance of the area and would not have a detrimental impact on the appearance of the wider streetscene.
76. Taking the above into consideration, it is considered that the proposed development would accord with Policy 29 of the CDP and Part 12 of the NPPF.

Highway Safety and Access

77. Policy 16 of the CDP requires new HMO's to provide adequate parking and access and Policy 21 states that new development should ensure that any vehicular traffic generated can be safely accommodated on the local and strategic highway network. This displays broad accord with paragraph 110 of the NPPF which requires new development to provide safe and suitable access to the site. Policy T2 (Residential Car Parking) of the DCNP supports developments with or impacting on car parking provided that car parking is designed to reduce vehicle movements on residential streets and is in designated bays or small groups separated by landscaping or features and designed with safety in mind. In turn, Policy T3 (Residential Storage for Cycles and Mobility Aids) of the DCNP requires residential development including change of use to seek to provide storage facilities for cycles which should meet DCC standards.
78. Objections have been raised that the development does not provide sufficient in-curtilage parking provision to serve the number of occupants proposed and that this would create unsustainable additional pressure to existing on-street provision in an area which is used by school children, has poor visibility due to the number of vehicles parked on the street, experiences high volumes of traffic by those accessing the city centre, and within close proximity to an existing junction with the A167.
79. The Highway Authority offer no objection to the application and do not considered there would be any adverse impact in terms of highway safety as a result of the proposals. They assess the proposal against the requirements of the current DCC parking standards which they note only considers parking requirements for properties of up to 5 bedrooms, but nevertheless confirm that the requirement in this regard would be 2 off street spaces. While the proposed HMO would have 7 bedrooms, it is reasonable to assume that an uplift of an additional space would be required from the 5 bed standard of 2 spaces. The proposed plans demonstrate that 3 off-street parking spaces are available and as such sufficiently demonstrates that the required uplift could be provided. However, they note that the front of the property does have scope to be widened to make further off street parking if the applicant was minded to explore this, but noted that there is no policy basis upon which to require this to be done in association with the current application.
80. Consequently, the amount of in-curtilage parking proposed is in accordance with the Council's parking and accessibility standards and is therefore acceptable in this regard.
81. With regard to concerns that the development would increase in vehicle movements along this section Monica Grove and the presence of parked vehicles narrowing the carriageway width, it is considered that the proposed use would not increase vehicle movements to an extent that it would adversely impact upon existing network capacity

or on street parking. In instances where vehicles presently obstruct the adopted footway this is subject to legislative control via the Highways Act and cannot be afforded weight in determination of this application.

82. Therefore, notwithstanding the concerns raised by residents in relation to parking and access it is not considered that the development would have a detrimental impact upon highway safety sufficient to sustain refusal of the application. In light of the above, it is considered that the development would accord with the aims of policy 16 and 21 of the CDP and paragraph 110 of the NPPF.

Other Matters

83. Objections have been raised regarding the proposed change of use resulting in the loss of council tax from the class N exemption from student occupiers, that house prices are rising and young families are being pushed out of the area. House prices itself is not a material planning consideration and the issue of social cohesion has been discussed elsewhere in this report.
84. Objections have been raised in relation to the impact that the loss of garden area and that this would have a detrimental impact upon surface water flooding at the junction with the A167. Whilst these concerns are noted the footprint of the building remains unchanged by the development and there are no proposals to extend the current driveway and as such the development would not have any material impact upon surface water disposal beyond the current situation in accordance with policy 35.
85. Concern has been raised in relation to the capacity of the existing foul water network to accommodate additional flows. In this regard it is noted that the occupation by 7 individuals whilst likely to have a greater impact upon utilities than that of a large family is nevertheless unlikely to fundamentally undermine the capacity of the wider network to the extent that it would conflict with policy 36 of the CDP. It should be noted that the application is not a type which requires consultation with either the Councils Drainage and Coastal Protection Team or Northumbrian Water.
86. Some respondents have raised concern at the extent to which the Council publicised the planning application. Whilst the concerns are noted the application was advertised by means of a site notice adjacent to the application property and letters sent to adjoining occupiers which exceeds the minimum statutory requirements as contained in the Town and Country Planning (Development Management Procedure) Order.

CONCLUSION

87. In summary, it is considered that the principle of development is acceptable in planning terms and would accord with the aims of policies 6 and 16 of the CDP subject to appropriate planning conditions described within the report and listed below.
88. When assessed against other policies of the County Durham Plan relevant to the application, it is considered that the introduction of a large HMO in this location would not unacceptably imbalance the existing community towards one dominated by HMOs, and nor would it result in any unacceptable impact upon the amenity of existing or future residents through cumulative impact from an over proliferation of HMOs or highway safety in accordance with policies 6, 16, 21, 29 and 31 of the County Durham Plan or parts 9, 12 and 15 of the NPPF.
89. In addition it is considered that on balance the development is acceptable in that it provides appropriate levels of amenity space for residents, protects the privacy and

amenity of existing and future residents whilst also being acceptable in terms of highway safety and flooding, in accordance with Policies 6, 16, 21, 29, 31, 35 and 36 of the County Durham Plan, Policies S1, H3, D4, T1, T2 and T3 of the Durham City Neighbourhood Plan and Parts 2, 4, 8, 9, 12 and 15 of the National Planning Policy Framework.

Public Sector Equality Duty

90. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
91. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 - Approved Plans.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 6, 16, 21, 29 and 31 of the County Durham Plan and Parts 2, 4, 8, 9, 12 and 15 of the National Planning Policy Framework.

3. The large HMO hereby approved shall be let to a total of no more than 7 tenants at any one time.

Reason: To ensure that adequate internal space is provided to serve the number of occupants in the interest of residential amenity in accordance with the aims of policy 29 of County Durham Plan.

4. No development shall commence until a scheme of sound proofing measures shall be submitted to and approved in writing by the local planning authority. The aim of the scheme shall be to ensure that the noise insulation of walls, floors, windows, roofs between the adjoining properties shall be sufficient to prevent excessive ingress, egress of noise sufficient to achieve the following noise levels;

- o 30 dB LAeq 8hr in all bedrooms during the night-time (2300 - 0700)
- o 45 dB LAm_{ax} in bedrooms during the night-time.

The approved scheme shall be implemented prior to the beneficial occupation of the development and shall be permanently retained thereafter.

Reason: To protect residential amenity in accordance with Policy 31 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

5. Notwithstanding the details shown on the submitted application, the external building materials to be used shall match the existing building.

Reason: In the interests of the visual amenity of the surrounding areas in accordance with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

6. Notwithstanding the details submitted within the application the development shall not be occupied until a detailed strategy of precise management methods, approaches and techniques for the operation of the site has been submitted to and agreed in writing by the Local Planning Authority. The strategy shall include measures of CCTV coverage, 24-hour security or warden presence, student warden schemes or other management operations, a scheme for the storage, removal of waste generated by the development and cycle storage.

Thereafter the development shall be implemented in accordance with the agreed details, with adherence to the agreed management scheme in perpetuity.

Reason: In the interests of reducing the potential for harm to residential amenity, anti-social behaviour or the fear of such behaviour within the community having regards Policies 29 and 31 of the County Durham Plan

7. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0730 to 1400 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF.

BACKGROUND PAPERS

Submitted application form, plans, supporting documents and subsequent information provided by the applicant

Statutory, internal and public consultation responses

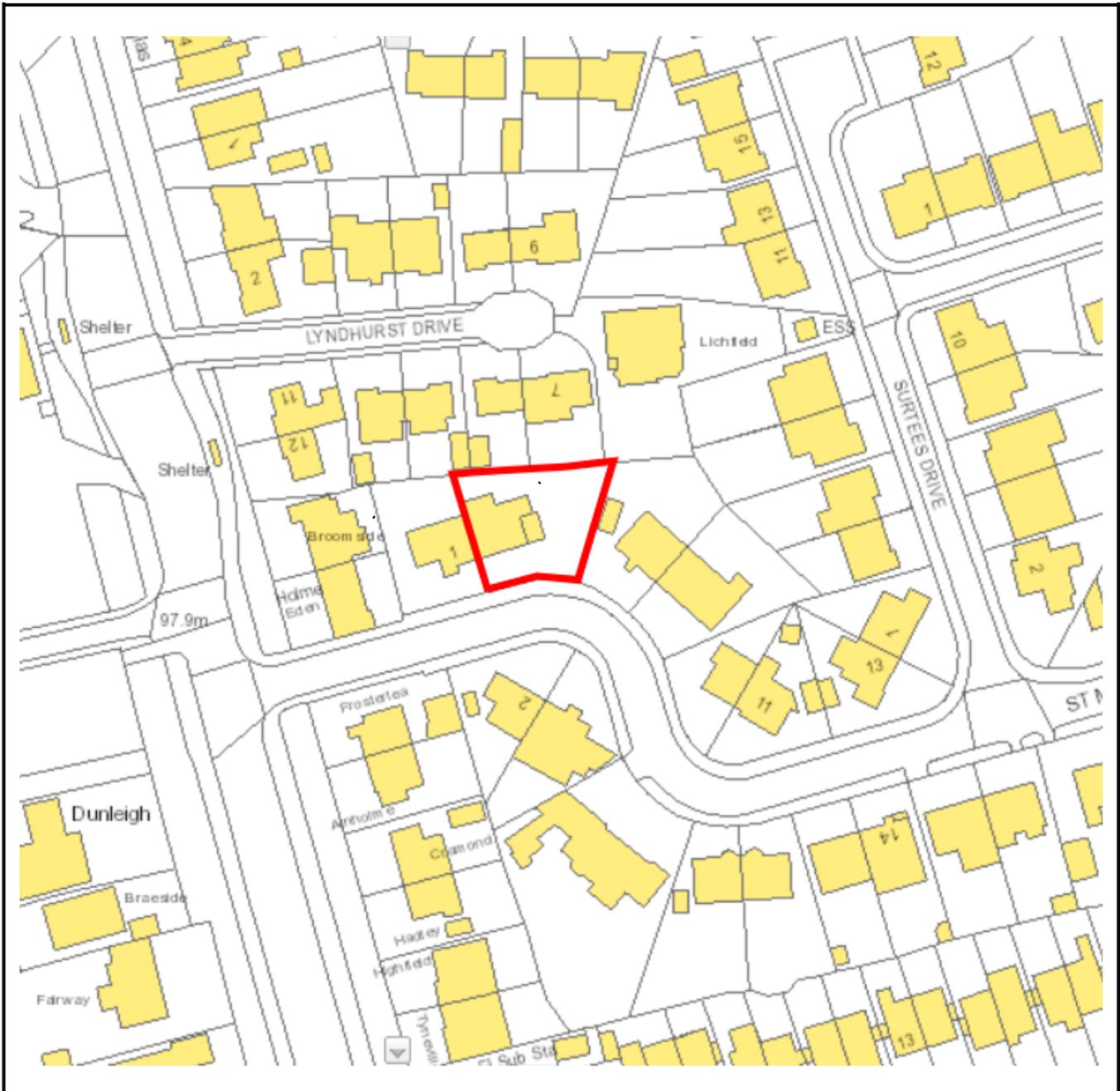
The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Durham City Neighbourhood Plan (2021)

Residential Amenity Standards SPD (2022)



Planning Services

DM/22/02364/FPA Change from dwellinghouse (C3) to small house in multiple occupation (C4) including conversion of the garage into a habitable room and single storey extension to rear at 1 St Monica Grove Crossgate Moor Durham DH1 4AS

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Date 30 March 2023

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/22/03703/FPA
FULL APPLICATION DESCRIPTION:	Change of use to hot food takeaway (across all three levels) and erection of high velocity duct/flue/cowl to rear, extracting above eaves but below ridge level.
NAME OF APPLICANT:	Dr Anthony Lang
ADDRESS:	17A Seaside Lane, Easington Colliery, Peterlee, SR8 3PF
ELECTORAL DIVISION:	Easington
CASE OFFICER:	Elinor Woodruff Planning Officer 03000 261059 elinor.woodruff@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is a vacant tanning, beauty, hairdressing and tattooing salon, located within the defined local centre of Easington Colliery. The premises is an end terrace, two-storey property, with a large corner frontage to Seaside Lane.
2. The property fronts onto Seaside Lane and does not benefit from any dedicated parking spaces. Immediately to the west of the property is an existing printing shop and the road that cuts through from Seaside Lane to Ashton Street. To the north of the site lies an area of amenity green space, with allotments beyond. To the south lies the Parish Church, along with a car park, another large area of green space and further allotments to the south. The area is surrounded by residential dwellings to the north east, north west, south west and south east.
3. The existing property is made up of three storeys and has both a two-storey and single storey extension to the rear, north facing elevation.
4. The property is situated within the HRA 6km Coastal Buffer Zone.

The Proposal

5. The application seeks full planning permission for the change of use to a hot food takeaway (across all three levels) and the erection of a high velocity duct/flue/cowl to the rear, north facing elevation.
6. The high velocity flue to the rear would exit through the ground floor window and would measure approximately 5.3m in height. All other changes from the plans provided are to be internal.

7. The application has been called to the Planning Committee at the request of Easington Colliery Parish Council due to concerns over an over proliferation of hot food takeaways, increased parking and servicing requirements, increased odour and noise, anti-social behaviour and littering which they consider are issues which the committee should consider.

PLANNING HISTORY

8. The following summarises planning history at the site:
9. DM/16/03841/FPA – Change of use from Estate Agent to tanning, beauty, hairdressing and tattooing salon. Approved on 7th March 2017.

PLANNING POLICY

NATIONAL POLICY

10. A revised National Planning Policy Framework (NPPF) was published in July 2021 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
11. In accordance with Paragraph 219 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
12. *NPPF Part 2 - Achieving Sustainable Development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
13. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
14. *NPPF Part 6 - Building a Strong, Competitive Economy.* The Government is committed to ensuring the planning system does everything it can to support sustainable

economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore, significant weight should be placed on the need to support economic growth through the planning system.

15. *NPPF Part 8 – Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
16. *NPPF Part 9 – Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
17. *NPPF Part 11 – Making effective use of land.* Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
18. *NPPF Part 12 – Achieving well-designed places* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
19. *NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
20. *NPPF Part 15 - Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

<https://www.gov.uk/guidance/national-planning-policy-framework>

21. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; design process and tools; determining a planning application; flood risk; healthy and safe communities; land stability; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; natural environment; neighbourhood planning; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of

planning conditions; Tree Preservation Orders and trees in conservation areas and; water supply, wastewater and water quality.

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

The County Durham Plan

22. *Policy 9 – Retail Hierarchy and Town Centre Development.* Defines the retail hierarchy and states that proposals that would positively contribute to the evening economy will be supported provided they contribute to the vitality and viability of town centres, promote public safety and accord with this and other relevant policies in the Plan.
23. *Policy 21 - Delivering Sustainable Transport.* Requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
24. *Policy 25 - Developer Contributions.* Advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.
25. *Policy 29 – Sustainable Design.* Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards.
26. *Policy 30 – Hot Food Takeaways.* States that within defined local centres consideration should be given to the impact that the proposed hot food takeaways would have in terms of the overall vitality and viability considering the numbers of existing hot food takeaways and will be refused if the impacts is unacceptable. Where a proposed hot food takeaway is considered locationally acceptable, consideration will need to be given to the impact that the development would have in terms of amenity, particularly in relation to noise and odours.
27. *Policy 31 - Amenity and Pollution.* Sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting

development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.

28. *Policy 42 Internationally Designated Sites* states that development that has the potential to have an effect on internationally designated site will need to be screened in the first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment. Development will be refused where it cannot be ascertained, following Appropriate Assessment, that there would be no adverse effects on the integrity of the site, unless the proposal is able to pass the further statutory tests of 'no alternatives' and 'imperative reasons of overriding public interest' as set out in Regulation 64 of the Conservation of Habitats and Species Regulations 2017. In these exceptional circumstances, where these tests are met, appropriate compensation will be required in accordance with Regulation 68. Where development proposals would be likely to lead to an increase in recreational pressure upon internationally designated sites, a Habitats Regulations screening assessment and, where necessary, a full Appropriate Assessment will need to be undertaken to demonstrate that a proposal will not adversely affect the integrity of the site. In determining whether a plan or project will have an adverse effect on the integrity of a site, the implementation of identified strategic measures to counteract effects, can be considered during the Appropriate Assessment.

NEIGHBOURHOOD PLAN:

29. The application site is not located within an area where there is a Neighbourhood Plan to which regards is to be had.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

30. *Easington Colliery Parish Council* – object to the application on the grounds that there is an oversaturation of hot food takeaways within the locality. It will also impact on the viability and vitality of the area due to the hours of operation there will be a detrimental impact on residential amenity and nearby residents from increased noise, odour and parking.

INTERNAL CONSULTEE RESPONSES:

31. *Spatial Policy* – Advises on relevant policies within the County Durham Plan. They further comment that the proposal could potentially reduce the number of vacant units however, this would be subject to ensuring that there would be no impact on the vitality and viability of the local centre.
32. *Nuisance Action Team* – Advises that the information submitted is not sufficient to allow full consideration against the thresholds stated in the TANS and does not support the proposed opening hours. Therefore, the Officer has recommended a condition if the application is to be recommended for approval.
33. *Highways Team* – Advises that although there is gated access to the rear, there is no in curtilage parking. Parking to the front is restricted due to the location of a built-out adjacent to the side street access and double yellow lines opposite. However, there is a public car park diagonally opposite. The Officer does raise concerns regarding the parking of delivery drivers and recommends any deliveries and servicing are undertaken from the rear of the property. As such, a condition is to be included to ensure this.

PUBLIC RESPONSES:

34. The application has been advertised by way of a site notice, press notice and individual notification letters to neighbouring residents.

APPLICANTS STATEMENT:

35. Overall, it is better to have some active use at these premises than none. The new use will provide jobs and a new facility which will help with competition and keep prices low. Business rates will bring more money into the Council, as will taxes. The concerns of the Parish Council are noted, but on balance, it is obviously better to something, than nothing.

PLANNING CONSIDERATIONS AND ASSESSMENT

36. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) forms the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035.
37. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of the development, impact on the character and appearance of the area and the impact on residential amenity.

The Principle of the Development

38. Paragraph 86 of the NPPF advises that planning policies should define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses and reflects their distinctive characters.
39. In line with this, Policy 9 of the County Durham Plan (CDP) sets out the hierarchy of town centres across the County. The policy defines the settlement of Easington Colliery as having a local centre in which the application site is located. The policy sets out that the council will seek to protect and enhance defined local centres. With regards to the evening economy, Policy 9 supports proposals that would positively contribute to the evening economy, provided that they contribute to the vitality and viability of town centres, promote public safety and accord with all relevant policies in the CDP.
40. CDP Policy 30 relates to proposals for changes of use to hot food takeaways and seeks to restrict the number of new hot food takeaways receiving planning permission within the County. This is specifically within town centres (as defined within Policy 9) where there are already higher concentrations of hot food takeaways. With regards to defined local centres, Policy 30 states that consideration should be given to the impact that the proposed hot food takeaway use would have in terms of the overall vitality and viability considering the numbers of existing hot food takeaway uses and will be refused if the impact is unacceptable. Consideration should be given to the impact that

such a proposal would have on the overall vitality and viability of the centre, reflecting on the mix of uses and also the levels of existing vacancies.

41. The Council monitor town centres on an annual basis and the provides an assessment of the mix of uses within town centres, within the County, but local centres are not monitored in the same way. Therefore, as part of the assessment of the application, a site visit and walk around the local centre is important to observe the current balance of uses within the local centre before assessing whether this proposal would harm the vitality and viability of the local centre.
42. It is noted that since the Examination in Public and shortly before the Inspectors report was issued, changes to the use class order were announced which have now taken effect. The Inspector acknowledged this within his report and recognised that none of the policies in the Plan prevent the new regulations taking effect in the County. The Inspector went on to state that National Policy remains unchanged, and whilst implementation of some of the policies in the Plan will be affected, the full implications are not yet clear and will need to be thought through over time. From September 1st, 2020, hot food takeaways are now defined as sui generis, but the policy is still however applicable to sui generis proposals that are clearly proposing a hot food takeaway. These will be hot food takeaways where their sole use is for the sale of hot food for consumption off the premises, as is the case for the proposed use applied for in this application.
43. A site visit was undertaken on the 15th of February 2023 during which it was observed that there are presently 5 existing hot food takeaways within the defined local centre and a total of 21 vacant premises including the application site, out of a total of 41 units. In the final quarter of 2022, high street vacancies in England were 13.8% according to the British Retail Consortium and Local Data Company with the vacancy rate in Easington Colliery Local Centre significantly higher than this at approximately 51%. In addition, it is noted that the application site has been vacant since October 2020 and as such has been without positive use for a significant period. The introduction of a hot food takeaway to No. 17 Seaside Lane would result in 14% of properties being in use as a hot food take away which is not considered an over proliferation and it is noted that there would be some benefit to the introduction of a positive use to a unit which has been vacant since 2020.
44. Given the high proportion of vacancies observed in the local centre, allowing this proposal for the introduction of a hot food takeaway in a currently vacant unit would not prevent opportunities for the introduction of additional retail/main town centre uses to come forward and operate from the other vacant units present within the local centre. It is acknowledged that there are limitations of the above data collection, but it is considered that sufficient evidence exists to demonstrate there is a high enough vacancy rate that the approval of this application would not prevent opportunities for retail uses to come forward. Accordingly, the principle of the proposed use in this location accords with CDP Policy 9 and 30, subject to the considerations discussed under the relevant headings below.

Residential Amenity

45. Paragraph 130 of the NPPF advises that planning decisions should create places that have a high standard of amenity for existing and future users.
46. In line with this, CDP Policy 30 states where a proposed hot food takeaway is considered locationally acceptable, consideration will need to be given to the impact that the development would have in terms of amenity, particularly in relation to noise

and odours. Where it is considered that the proposal would give rise to unacceptable impact, the application should be refused.

47. CDP Policy 31 also states that all new development which has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours, noise and vibration or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level.
48. The development is of a type which can give rise to additional noise and odour, generated by cooking processes and also as a result of increased disruption from the comings and goings of customers and deliveries, usually outside of core business hours. The Environmental Health Officer (EHO) commented that the information submitted with the application is not sufficient to allow full consideration against the thresholds stated in the TANS.
49. The proposal would see the introduction of an additional takeaway unit in mixed commercial/residential setting. The intention to operate seven days a week from 0700hrs to 0400hrs is proposed however these were subject to objection from the Council's EHO who confirm that to operate beyond 2300hrs on any day would require a premises licence. Consequently, a condition is proposed to be included should the committee be minded to approve the application, which restricts the hours of opening to no later than midnight on Fridays and Saturdays and 11:30pm on any other day. This has been based on the opening hours of 38 Seaside Lane (Pizza Mania) restricted by condition 4 of reference 5/PL/2009/0433 and No. 37 Seaside Lane restricted via condition 5 of Planning Permission DM/21/02693/FPA.
50. No details of the proposed menu have been provided and whilst some information in relation to proposed fume extraction and schematic plan have been submitted, this does not relate to any information in terms of likely menu. As such the suitability of the proposed solution cannot be robustly assessed and in any event would need to be supported by a risk assessment based on EMAQ/DEFRA guidance on the control of odour and noise from a commercial kitchen exhaust system. Consequently, the EHO has advised that conditions should be imposed to mitigate the potential statutory nuisance or adverse impact upon amenity. Specifically, a planning condition requiring the submission and agreement of precise detail of all proposed extraction equipment to the LPA to be informed by a risk assessment based on EMAQ/DEFRA guidance as detailed above prior to the commencement of the proposed use.
51. With regard to the requirement to contribute to healthy neighbourhoods, Policy 29 requires that proposals contribute towards healthy neighbourhoods and consider the health impacts of development, whilst Section 8 of the National Planning Policy Framework (NPPF) acknowledges the role of planning in improving health. In this regard it is acknowledged that whilst significant high levels of hot food takeaways within an area can have a detrimental impact on the physical health of residents within communities, within this location it is not considered that there is an over proliferation of hot food takeaways in the immediate vicinity to a level that could be considered to have a direct detrimental impact on the physical health of the neighbourhood, to a level that could warrant refusal of the application.
52. In relation to potential impacts from antisocial behaviour and fear of crime whilst it is noted that such issues are subject to primary legislative control outside the planning system, they are nevertheless material considerations in determination of this application. However, it is noted that the property is set within a parade of existing commercial units beside a main road, benefits from natural surveillance and is well lit during evening hours by street lighting. As such there it is not considered that the

proposed use would result in any material increase in crime, the fear of crime or antisocial behaviour.

53. Therefore, subject to the inclusion of planning conditions, the proposed development is considered to accord with the requirements of CDP Policy 30 and 31 and Parts 12 and 15 of the NPPF.

Impact on the Character and Appearance of the Area

54. CDP Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.
55. CDP Policy 30 also seeks to ensure that roller shutters and blanks frontages be avoided.
56. The submitted elevations show no changes to the shop front but do show the proposed installation of a flue to the rear, north facing elevation. Whilst the precise detail of the plant required in this regard remains subject to final design it is likely that . It would be visible from Ashton Street to the rear; however, this would not look out of place as there are existing flues within the vicinity that serve other hot food takeaways. It would also be partially visible from Seaside Lane, looking eastwards via the cut through to Ashton Street. However, it is not considered that this would have a detrimental impact upon the character and appearance of the area.
57. In consideration of the above, the overall design and layout of the development is considered to be appropriate, and suitably accords with requirements set out in policies 29 and 30 of the CDP.

Highways Issues

58. Paragraph 110 of the NPPF advises that planning decisions should ensure development provides safe and suitable access to the site for all users.
59. Paragraph 111 of the NPPF advises that development should only be prevented or refused on highways grounds if there would be unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
60. CDP Policy 21 is broadly in accordance with the above and relates to the delivery of sustainable transport and states that the transport implications of development must be addressed as part of any planning application and [in part] that all development should deliver sustainable transport by ensuring that any vehicular traffic generated by the development, following the implementation of sustainable transport measures, can be safely accommodated on the local strategic highway network.
61. The application proposes the change of use from a former tattoo shop to a hot food takeaway. Parking to the front of the premises along Seaside Lane is restricted by the location of a built-out adjacent to the side street access and double yellow lines opposite. This results in space on Seaside Lane being at a premium, however there is a public car park diagonally opposite the site which would be available for customers to use.
62. An objection has been received from the Parish Council, citing concerns about car parking not being readily available on Seaside Lane and as such is at a premium, and

that the proposal would result in an increase in visitors and this would have a detrimental impact on residents.

63. The Highway Authority have been consulted and did raise some concern over the fact that the premises did not have any dedicated off-street parking provision and the likelihood of delivery drivers using the space to the front of the premises to collect order for dispatch and receive supplies. Highway Officers have noted the public car park diagonally opposite the site and parking available to the rear of the property on Ashton Street which would be available for use. As such, a condition is recommended to ensure deliveries and servicing takes place exclusively at the rear of the property.
64. Although it is likely there will be some increase in vehicular movements to and from the premises compared to those that might be expected as a result of the current permitted use. The Highway Authority does not consider this to result in such a significant increase to severely impact upon the capacity of the surrounding road network sufficient to sustain refusal of the application upon highway safety grounds as required by NPPF Paragraph 111.
65. In light of the above it is considered that given the location of the application site, within the defined local centre of Easington Colliery and adjacent to a bus stop providing access to sustainable travel facilities, that the proposal would not adversely affect highway safety and would accord with the requirements of Policy 21 of CDP and Part 9 of the NPPF.

CONCLUSION

66. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan in this case relates to the County Durham Plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up to date development plan without delay (paragraph 11 c).
67. The proposal relates to the conversions of a vacant tattoo shop within the defined local centre of Easington Colliery into a hot food takeaway. Whilst there are five existing hot food takeaways operating within the local centre, the proposal would bring a unit that has been vacant for three years back into use. Given the high number of vacant premises within the local centre the introduction of a further hot food takeaway would not preclude the introduction of retail uses in the future. Therefore, the proposals are not considered to adversely affect the vitality or viability of the local centre, according with CDP Policy 9 and 30 and Part 7 of the NPPF.
68. Although the applicant has not provided any information relating to odour mitigation measures at the current time, EHO have recommended a condition to secure details of this. It is also recommended a condition is implemented to restrict operating hours. With these conditions, the amenity of neighbouring land users is considered to be safeguarded, according with CDP Policy 30 and 31 and Part 12 of the NPPF.
69. Whilst Highways Officers have raised concern at the lack of dedicated parking to serve the development and increased number of delivery drivers, the application site is considered to be a sustainable location within the defined local centre of Easington Colliery, with an adjacent bus stop and public car park and with provision for on-street parking and unloading on Ashton Street to the rear. The increase in vehicular movements to and from the premises is not considered to be of such significance to warrant the refusal of the application in the context of NPPF Paragraph 111.

70. Therefore, the proposed development is considered acceptable in principle and would not have an unacceptable impact upon the character and appearance of the area, residential amenity or highway safety in accordance with the requirements of policies 21, 29, 20 and 31 of the County Durham Plan and Sections 2, 4, 6, 7, 8, 9, 12 and 15 and so approval is recommended subject to the inclusion of appropriate planning conditions.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 - Approved Plans.

Plan	Drawing No.	Date Received
Location Plan		14.12.2022
Proposed Plans and Elevations	AD-22-11 SHEET 2	14.12.2022
Existing and Proposed Site Plans	AD-22-11 SHEET 3	14.12.2022
Design and Specification for Extraction Ventilation System		14.12.2022

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 9, 21, 29, 30 and 31 of the County Durham Plan and Parts 2, 4, 5, 6, 7, 9 and 12 of the NPPF.

3. The rating level of noise emitted from fixed plant/machinery on the site shall not exceed the background (LA90) by more than 5dB LAeq (1 hour) between 07.00-23.00 and 0dB LAeq (15 mins) between 23.00-07.00. The measurement and assessment shall be made according to BS 4142: 2014+A1: 2019.

On written request by the planning authority the operator shall, within 28 days, produce a report to demonstrate adherence with the above rating level. If the report identifies that the required limits have not been achieved, the offending plant/machinery shall cease to operate until such time as the required limits have been demonstrated as being achieved.

Reason: To protect the amenity of future occupiers in accordance with Policy 29, 30 and 31 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

4. The premises shall not operate outside the hours of 09:00 to 23:30rs on Mondays to Thursdays, 09:00 to 00:00hrs on Fridays and Saturdays and between 11:00 to 23:30hrs on Sundays.

Reason: In the interests of the residential amenity of surrounding properties in accordance with Policy 30 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

5. All deliveries and servicing (including those being despatched and received) shall only be undertaken from the delivery area at the rear of the property. No deliveries shall be received or despatched from the property outside the approved hours of operation detailed in condition 4.

Reason: In order to ensure the highway safety in accordance with Policy 21 of the County Durham Plan.

6. No hot food shall be prepared or served at the premises until full details of all external fume extraction equipment has been submitted to and agreed in writing by the Local Planning Authority to be informed a risk assessment based on EMAQ/DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems. The approved scheme shall be installed prior to the use commencing and shall be operated at all times thereafter when cooking is being carried out on the premises.

Reason: In the interests of the residential amenity of surrounding properties in accordance with Policy 30 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF.

BACKGROUND PAPERS

- Submitted application form, plans supporting documents.
- The National Planning Policy Framework (2021)
- National Planning Practice Guidance notes.
- County Durham Plan 2020
- Statutory, internal and public consultation responses
- County Durham Parking and Accessibility Standards 2019



and database right 2023.
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Planning Services

DM/22/03703/FPA Change of use to hot food takeaway (across all three levels) and erection of high velocity duct/flue/cowl to rear, extracting above eaves but below ridge level.

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Date 30 March 2023

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/22/02292/VOC
FULL APPLICATION DESCRIPTION:	Variation of condition 2 of planning permission 4/99/00534/FPA to allow a change in opening hours.
NAME OF APPLICANT:	Luxury Leisure
ADDRESS:	5 North Road Durham DH1 4SH
ELECTORAL DIVISION:	Elvet and Gilesgate
CASE OFFICER:	Lisa Morina Senior Planning Officer Telephone: 03000 264877 Lisa.morina@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is located on North Road in Durham and is currently being operated as an amusement centre for adult gaming, namely Admiral. The site is considered to be within the commercial centre of the city as defined by the County Durham Plan and as such the immediate locality is characterised by commercial uses although there are some residential properties within the vicinity of the site.
2. The property is located between two retail units, one being vacant at present and the other occupied by Sainsburys.
3. Planning permission was granted for the change of use of the property in 1999 to amusement centre with ancillary retail sales and catering. This was subject to a planning condition which restricted the opening hours to between 09:00 and 22:00 on any day. In April 2022 complaint was received by the LPA that the use was operating beyond the times restricted by this condition and as such this planning application seeks to regularise that breach of planning control via the variation of the previous condition.

The Proposal:

4. Specifically, planning permission is sought to vary condition 2 of planning permission 4/99/00534/FPA in order to allow a change in opening hours to 09:00 to 02:00 from the currently permitted hours of 09:00 and 22:00.
5. The application originally sought permission to vary the condition to allow 24 hours opening but has since been amended to reflect the above. In submitting the application, the applicant advises that the condition was attached to the original planning permission which was granted some 20 years ago and that the use has operated without complaint in the intervening period, and as a consequence believes there to be scope for expanding opening hours. In doing so they consider it to be of

relevance that town centres are increasingly evolving reflecting a greater focus on leisure uses to help bolster vitality and viability. The application is supported by a review of potential noise impacts supplied by a noise consultant.

6. The application is reported to planning committee at the request of the City of Durham Parish Council as they consider issues in relation to noise and disturbance to be such that the application should be considered by the committee.
7. This application was originally presented to planning committee in December 2022 where members resolved to defer the proposal to allow Durham Constabulary to present further evidence. Since this time, Durham Constabulary have withdrawn their objection to the scheme. Full summary of those comments are assessed elsewhere in this report.

PLANNING HISTORY

8. 4/99/00534/FPA - Change of use to amusement centre with or without ancillary retail sales and catering. Approved 22/10/99.

PLANNING POLICY

NATIONAL POLICY

9. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
10. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
11. *NPPF Part 4 Decision-making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
12. *NPPF Part 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
13. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning

Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.

14. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

15. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

<https://www.gov.uk/guidance/national-planning-policy-framework>

NATIONAL PLANNING PRACTICE GUIDANCE:

16. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters.

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

County Durham Plan

17. Policy 31 (Amenity and pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.

Neighbourhood Plan

18. The application site is located within the Durham City Neighbourhood Plan (DCNP) and as such the following policies are considered relevant:

19. Policy E4 - (Evening Economy) supports development that would promote/support the early evening and night time economy provided that they contribute to the vitality and viability of the centre and add to/improve the cultural and diversity offer. Such developments are required to provide a strategy for public safety and provide evidence in relation to impacts upon amenity.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

20. Durham Police Architectural Liaison Officer – Originally objected to the proposed 24 hour opening, and subsequently maintained that objection in response to the revised times of 09:00 to 02:00 as presented to the committee in December 2022. However, Durham Police have since confirmed that considering there is another arcade doors away which is trading until 2am without any problems, the concerns have been negated and therefore they raise no objection.

21. City of Durham Parish Council - Objects to the proposal for the following reasons:

- Planning Conditions have previously been disregarded.
- No noise assessment has been received
- Opening hours should be similar to neighbouring properties.
- Residential Amenity Issues
- Similar application has a restriction on opening hours

INTERNAL CONSULTEE RESPONSES:

22. Environmental Health (Nuisance) Section – Objected to 24 hour opening but removed that objection after the application was amended to propose opening hours of between 09:00 to 02:00 subject to the inclusion of a planning condition restricting the use of external areas to the front and rear of the property outside of the hours of 09:00 to 22:00 and that the development be carried out in accordance with the mitigation measures detailed in the review of potential noise impact submitted by Apex Acoustics

PUBLIC RESPONSES:

23. The application has been advertised by means of site notice and by notifying neighbouring residents by letter.

24. To date, three letters of objection including one from the City of Durham Trust have been received citing the following points of concern:

- The proposed opening hours will exacerbate the gambling problem.
- Noise issues
- Night-time disturbance to City residents is very well documented and cannot be disputed.
- Opening hours should be similar to neighbouring properties.
- Residential Amenity Issues
- Similar application has a restriction on opening hours

25. Cllr Ormerod, Ward Councillor for the area, objects to the application and considers that the extended opening hours would have an adverse impact on the local community as there are many residential properties nearby. There would be a significant and detrimental impact in terms of noise and disturbance to residents in this area.

APPLICANT'S STATEMENT:

26. Luxury Leisure has been trading its adult gaming centres across the UK for decades and they are popular leisure destinations. It has many premises nationally, of which c

100 trade 24 hours a day, 7 days per week. Following the grant of planning permission (ref. FPA/P/4/99/0534/AS) for a change of use they have been trading from 5 North Road in Durham since 1999. A condition attached to this planning permission restricted the current opening hours of the premises from 9 AM to 10 PM in any one day.

27. Given the condition was attached as part of the original permission issued in 1999, over 20 years ago, as well as the fact the unit has operated successfully and with no complaints in the intervening period, it is considered there is scope for an easing of these opening hour restrictions. This is particularly the case as town centres are increasingly evolving to focus more on leisure uses to help bolster their vitality and viability. There are also other uses present on North Road which operate beyond the historic restrictions imposed on our client, including Sainsbury's Local, the Three Bridges public house, Babylon Nightclub, the Waterhouse public house, Loft nightclub, the Head of Steam, and Tesco Express. Planning permission has also recently been granted for another adult gaming centre at 12 North Road, which is able to open until 2 AM.
28. As identified at Objective of the County Durham Plan (Objective 5 – Town Centres) is to “Maintain a clear hierarchy of vibrant, diverse and distinct retail centres that are the focus for commercial, retail, leisure, culture and other appropriate uses.” As such the presence and focus of leisure uses in this location is to be expected and this should be a material consideration when balancing any impact upon amenity within the city centre arising from the increased opening hours. Policy 9 (Retail Hierarchy and Town Centre Development) also states that proposals that would positively contribute to the evening economy will be supported provided they contribute to the vitality and viability of town centres, promote public safety and accord with this and other relevant policies in the Plan.
29. In terms of impact, the site is surrounded by a mix of predominantly commercial premises, and the upper floors of the site are not in residential use. Notwithstanding this, in consultation with the Council's Nuisance Action Team, the applicant has submitted a Noise Assessment prepared by Apex Acoustics. This confirms that, in the context of the existing sound environment, and Luxury Leisure's nature of operation, noise control measures, and noise sources and levels associated with the premises, the extended operation of the premises is unlikely to result in an adverse impact or be distinguishable against other residual noise sources at the nearest noise sensitive receptors.
30. In terms of Luxury Leisure's current operation, the premises also already incorporate measures to mitigate against unacceptable levels of noise disturbance. For example, Luxury Leisure display signs at its premises asking customers to leave the premises quietly to respect neighbours during night time hours. They also already have a smoking policy and designated smoking area to control noise levels from smokers congregating outside the premises. Such noise levels are limited relative to the nature of uses within the immediate surrounding area, which comprises a busy city centre location, and the proposed use is not an activity that generates amplified sound or is known to be particularly noisy.
31. Moreover, from previous experience and data provided in respect of night-time customer numbers at other similar Luxury Leisure sites, it is unlikely that the proposed extension of the unit's opening hours would result in significant numbers of new customers using the premises. From other sites, it is estimated that customer numbers in any hour at night are a maximum of 10, and more typically a maximum of six. These customers are generally single individuals, and the sites do not attract large groups of people. At other similar sites, noise from patrons leaving and arriving

at the premises has not been detectable or measurable and has had no material impact on the surrounding noise environment.

32. Overall, the Nuisance Action Team has reviewed the applicant's submissions and recommended that the application can be approved, subject to planning conditions which effectively replicate similar conditional restrictions imposed upon a the recent planning permission at 12 North Road. In conclusion, therefore, the proposed variation of condition is considered to comply with the development plan, and it is respectfully requested that the application be granted planning permission.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P8X9C0GDL8J00>

PLANNING CONSIDERATIONS AND ASSESSMENT

33. Section 73 of the Town and Country Planning Act 1990 (as amended) applies to the determination of applications to develop land without the compliance with conditions previously attached. S73 states that on such an application the Local Planning Authority (LPA) shall consider only the question of the conditions subject to which planning permission should be granted. The LPA should decide whether planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted or that it should be granted unconditionally. If the LPA decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they should refuse the application.
34. In considering such an application, the Development Plan and any other material considerations under section 38(6) of the Planning and Compulsory Purchase Act, are relevant in the determination. LPAs should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission.
35. Planning permission was originally granted in 1999 for the use of the premises as an adult amusement centre subject to a condition which restricted the hours of opening to between 09:00 to 22:00 on any day. The reason for the inclusion of the condition was in the interests of the amenities of the area.
36. As noted, that application seeks to vary the condition in order to allow extended hours of operation and is submitted in response to an enforcement complaint reported to the LPA regarding the use of the property outside of those hours restricted by the condition. It originally sought permission to vary the previous condition to allow 24 hour opening on all days. In response, concerns were raised by Durham Police, the Council's Environmental Health Section and other consultees and residents regarding noise and disturbance and the likely impact on nearby residents. As such the scheme was subsequently amended to restrict the hours of use to between 09:00 to 22:00.
37. The acceptability of the principle of the development was established through the previous planning permission and as such the principal issue for consideration in the determination of the application is the extent to which the proposal would lead to an unacceptable increase in noise and disturbance, to the detriment of residential amenity of surrounding occupiers and other uses within the locality.

38. Policy 31 of the CDP states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated whilst ensuring that any existing business and/or community facilities do not have any unreasonable restrictions placed upon them as a result. Policy E4 of the City of Durham Neighbourhood Plan is also relevant and supports development that would promote/support the early evening and night-time economy, provided that they contribute to the vitality and viability of the centre and add to improve the cultural and diversity offer. Such developments are required to provide a strategy for public safety and provide evidence in relation to impacts upon amenity.
39. Whilst the proposed opening hours have been amended those objections from the City of Durham Parish Council, the City of Durham Trust, and other interested parties remain unchanged. They continue to consider that the level of noise and disturbance from patrons entering and leaving the property during the later hours would have a detrimental impact to residential amenity, and add to issues of noise, disturbance and antisocial behaviour already present in the area during this period. Concern was also raised that the application is not supported by a Noise Impact Assessment.
40. In response to concerns raised, the applicant has provided a review of potential noise impacts resulting from the proposal prepared by Apex Acoustics who are a recognised acoustic consultant. Whilst not a noise impact assessment the document nevertheless provides an assessment of likely sources of noise associated with the use, using an example of another property operated by the applicant in Chester-le-Street. It also provided details of some basic noise control measures which they consider would mitigate any impact to within acceptable levels and includes restricting noise generating activity to day-time periods only (such as the use of bingo callers), the use of a lobbied entrance and proactive management to ensure that patrons leave the premises quietly.
41. Durham Constabulary have withdrawn their previous objection and in doing so note that there is another arcade only doors away which is trading until 2am without any adverse impact, and that as such their previous concerns have been negated and raise no objection to the proposed opening hours.
42. The Council's Environmental Health Section has reviewed the information and considers that subject to planning conditions the extended opening hours could be supported and would not result in a level of impact upon the residential amenity. Those conditions advised relate to restrictions on the use of the front and rear as smoking areas, that the sound attenuation measures listed in the acoustic memo from Apex Acoustics is fully implemented prior to the extended hours becoming operational, no bingo callers to operate after 22:00 on any day, that internal noise levels shall not exceed 67dBA after 22:00 and that the premises is not open outside of the hours of 09:00 to 22:00 Sundays. Whilst the applicant has sought an opening time beginning at 09:00 Monday to Saturday, the Council's EHO has advised that an 08:00 opening time on those days would not have any detrimental impact upon the amenities of nearby occupiers, and that in order to ensure consistency with other commercial uses in the locality, an earlier time of 08:00 could be secured via planning condition. The applicant raises no objection to a planning condition in this regard.

43. Whilst one of the conditions advised by the EHO seeks to restrict customers from congregating to the front of the property, it is noted that this area forms part of the public highway and as such the planning authority is unable to include any restriction in this regard. Any planning condition which specifically seeks to prohibit this would therefore fail the required tests in that it is not enforceable, related to planning or reasonable in all other respects.
44. Those conditions attached to the planning permission 4/99/00534/FPA which remain relevant should be reproduced and attached to the new planning permission if the committee is minded to approve this application.

Other Issues

45. Some respondents raised concern that the extended hours would encourage gambling and exacerbate associated problems which they consider to be well documented. In response however, it is noted that the principle of the use of the property as an adult gaming and gambling centre is well established and the extended opening hours would not materially alter the fundamental nature of that use. Therefore, and notwithstanding the wider concerns raised, it is not considered that in this instance they would amount to material considerations capable of sustaining refusal of the application.
46. Concern has been raised that, by the applicant's own admission, the previous condition restricting the hours of use has been breached. Whilst it is clearly disappointing that the condition has not been fully complied with, it is important to note that planning legislation makes provision for planning applications to be submitted retrospectively in order to resolve breaches of planning control where they occur. As such, the retrospective nature of the application, although disappointing, cannot be afforded weight in the determination of this application.

Public Sector Equality Duty

47. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
48. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

49. The proposed variation of opening hours is considered to have an acceptable impact on the surrounding residents due to the opening hours of nearby properties in accordance with policy 31 of the County Durham Plan.
50. The proposal is therefore recommended for approval.

RECOMMENDATION

That the application be APPROVED, subject to the following conditions:

1. The use of the premises as an adult gaming centre shall not be open to customers outside the hours of 08:00 to 02:00 Monday to Saturdays and 09:00 to 22:00 on Sunday. No bingo caller shall operate from the property after 22:00 on any day.
Reason:

In the interests of the residential amenity of surrounding properties in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

2. The external area to the rear of the premises as shown on Drawing No. L-11-6-01 Rev E shall not be used by customers outside the hours of 09:00-22:00 hours on any day.

Reason: In the interests of the residential amenity of surrounding properties in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

3. The premises to which this planning permission relates shall be used for the playing of amusement-with prizes machines, and there shall be no amusement only machines or games of a sessional nature.

Reason: To reserve the rights of the Local Planning Authority with regard to these matters in the interests of the amenities of the area.

4. Prior to the implementation of the amended hours as identified in Condition 1, all sound attenuation measures as detailed in the Apex Acoustics Memo reference 10344.1C, dated 24 October 2022 and published on the planning portal on 24 October under the heading 'REVIEW OF POTENTIAL NOISE IMPACT DUE TO EXTENDED OPERATION' shall be fully implemented and permanently retained thereafter.

Reason: In the interests of the residential amenity of surrounding properties in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

5. Notwithstanding the information shown on the submitted plans there shall be no music transmitted from the premises or loudspeakers mounted externally on the building.

Reason: To protect the area against noise intrusion.

6. The internal noise levels measured within the building shall not exceed 67dBA Leq after 2200hrs on any day.

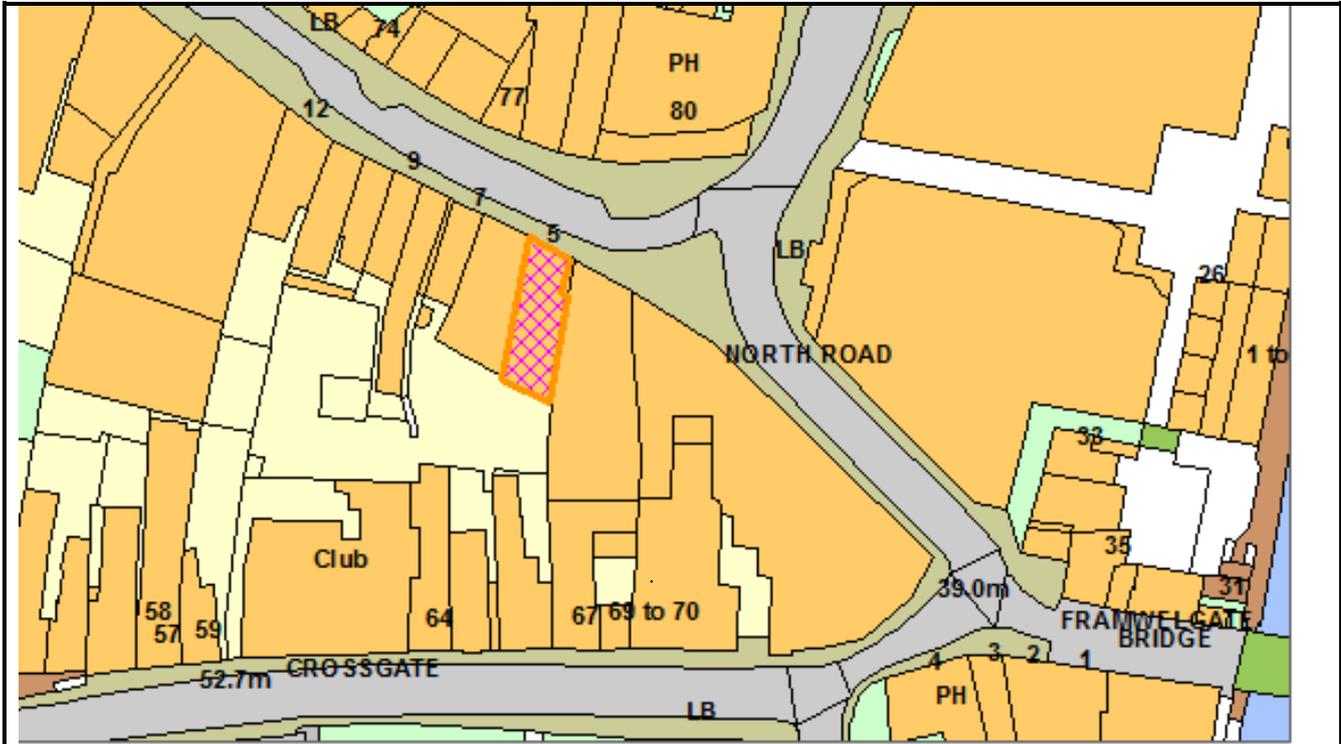
Reason: In the interest of the amenity of existing and future occupants in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF.

BACKGROUND PAPERS

Submitted application form, plans, supporting documents and subsequent information provided by the applicant
 The National Planning Policy Framework (2021)
 National Planning Practice Guidance Notes
 County Durham Plan
 Statutory, internal and public consultation responses



<p>Planning Services</p>	<p>Variation of condition 2 of planning permission 4/99/00534/FPA to allow a change in opening hours from 09:00 to 02:00 previously restricted to 09:00 and 22:00 at 5 North Road, Durham, DH1 4SH Application Reference: DM/22/02292/VOC</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p>Date: March 2023</p>	<p>Scale NTS</p>